Europäisches Patentamt
European Patent Office
Office européen des brevets

EPO Codex

Collection of EPO's internal service regulations and other rules

January 2025

The Codex is a collection of the EPO's major non-patent legal texts.

Despite all the care we have taken in producing and updating this document, the occasional error may have escaped our attention. In such a case, only the original provision is authentic.

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Service Regulations for permanent and other employees, implementing rules, circulars and communiqués

Service Regulations for permanent and other employees[1]

1 English version revised by decision of the Administrative Council CA/D 18/24 to introduce gender-neutral language The German and French versions remain unchanged.

DECLARATION ADOPTED AT THE 55TH MEETING OF THE ADMINISTRATIVE COUNCIL FROM 13 TO 15 DECEMBER 1994:[1]

The Administrative Council and the President of the Office note that when reviewing the law applied to EPO staff the ILO Tribunal considers not only the legal provisions in force at the European Patent Organisation but also general legal principles, including **human rights**. The Administrative Council also noted with approval the President's declaration that the Office adheres to the said legal provisions and principles.

DECLARATION ADOPTED AT THE 181ST MEETING OF THE ADMINISTRATIVE COUNCIL ON 10 DECEMBER 2024[2]

The Administrative Council and the European Patent Office recognise the importance of ensuring gender equality through a consistent use of gender-neutral language in all legal instruments adopted by the Administrative Council or by the President of the European Patent Office. Where it has not been possible to employ gender-neutral language, because it would conflict with legal certainty and intelligibility of the text, any use of gender-specific terms is to be interpreted as applying to all persons without reference to a specific gender, except where it is clear from the context that a reference to a specific gender is intended.

1 See CA/PV 55, CA/104/94, point 66, and Communiqué No. 257.
2 See decision of the Administrative Council CA/D 18/24.

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THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33, paragraph 2 b) thereof,

HAS ADOPTED THE FOLLOWING SERVICE REGULATIONS FOR PERMANENT AND OTHER EMPLOYEES OF THE EUROPEAN PATENT OFFICE:[1]

TITLE I
EMPLOYEES OF THE EUROPEAN PATENT OFFICE, THEIR RECRUITMENT, ASSIGNMENT AND PROBATION

Chapter 1
Field of application of the Service Regulations
The appointing authority

Article 1
Field of application

(1) These Service Regulations shall apply to permanent employees of the European Patent Office (hereinafter referred to as "the Office").

(2)[2] For the purposes of these Service Regulations, "permanent employee" means any employee of the Office who has been appointed as probationer or on a permanent basis by a written instrument of the appointing authority.

(3) These Service Regulations shall apply also to former employees of the Office in all cases expressly provided for in these regulations.

(4)[3] These Service Regulations shall apply to the members, including the chairs, of the Boards of Appeal and of the Enlarged Board of Appeal and to the President of the Boards of Appeal (hereinafter referred to as "members of the Boards") in so far as they are not prejudicial to their independence.

(5)[4] These Service Regulations shall apply to the President and vice-presidents employed on contract unless their contract of employment expressly provides otherwise.

1 Decision of the Administrative Council CA/D 9/77.
2 The term "permanent employee" shall be replaced by the term "employee", be those terms in their singular or plural form, in all articles of the Service Regulations except: Article 1 (1) and (2), Article 41, Article 46, Article 84 and Article 114. Decision of the Administrative Council CA(D 2/18, Article 1.
3 Modified by decision of the Administrative Council CA/D 8/16.
4 Modified by decision of the Administrative Council CA/D 2/18.

(6)[1] These Service Regulations shall apply to principal directors of the Office employed on contract unless their contract of employment expressly provides otherwise.

(7)[2] These Service Regulations shall apply to other employees on fixed-term appointments unless their letter of appointment expressly provides otherwise.

(8)[3] With the exception of Article 15, the provisions of Chapter 1 of Title II shall apply to all employees of the Office, regardless of appointing authority or type of employment or of any provisions in the contract of employment.

Article 1a[4]
Diversity and inclusion

(1) Without prejudice to Article 5, paragraph 1, Article 8, Article 54, Article 62b and Article 72, any discrimination in the application of these Service Regulations based on any ground such as gender, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual identity or orientation shall be prohibited.

(2) For the purpose of these Service Regulations, a registered partnership shall be treated as a marriage provided that the registered partnership has been legally recognised in one of the Contracting States.

Article 1b[5]
Protection of personal data

(1) The Office endeavours to ensure respect for the fundamental rights to privacy and to the protection of personal data of all individuals whose data are processed by the Office, and to guarantee accountability in this regard.

(2) This Article, Article 32a and their Implementing Rules shall apply to the Office's processing of personal data wholly or partly by automated means and to its processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system; in applying them, due regard shall be had to the independence of the Boards of Appeal in their judicial capacity. The scope of this Article, Article 32a and

1 Inserted by decision of the Administrative Council CA/D 24/07.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 Inserted by decision of the Administrative Council CA/D 7/17.
4 Amended by decision of the Administrative Council CA/D 17/23, see transitional provisions:
Article 5
(1) Notwithstanding Articles 14a(6) and 65(1)(d) ServRegs, employees in service before 1 January 2024 who entered into a registered partnership before that date may, but need not, inform the Office of their registered partnership.
(2) By way of derogation from Article 65(1)(c) ServRegs, should employees referred to in paragraph 1 choose to not inform the Office of their registered partnership by 30 June 2024, they will permanently forfeit all related entitlements and benefits.
5 Inserted by decision of the Administrative Council CA/D 5/21.

their Implementing Rules shall extend to all natural persons not covered by Article 1 whose personal data are processed by the Office.

(3) Personal data which are, by their nature, particularly sensitive in relation to fundamental rights and freedoms merit specific protection, as the context of their processing could create significant risks to those fundamental rights and freedoms. Such personal data shall not be processed unless the specific conditions set out in the Implementing Rules for Articles 1b and 32a are met. Those personal data may include personal data revealing racial or ethnic origin; the use of the terms "race" and "racial origin" in these Service Regulations and their Implementing Rules is not, however, to be construed as implying an acceptance by the European Patent Organisation of theories which attempt to determine the existence of separate human races.

(4) The Office shall endeavour to put in place measures which facilitate the exercise of the data subject's rights under these Service Regulations and their Implementing Rules, including mechanisms for requesting and, if applicable, obtaining free of charge, in particular, access to and rectification or erasure of personal data and for exercising the right to object.

(5) Where personal data might lawfully be processed because processing is necessary to carry out tasks in the exercise of the official activities of the European Patent Organisation or in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and functioning, a data subject shall nevertheless be entitled to object to the processing of any personal data relating to their particular situation. It should be for the controller to demonstrate that its compelling legitimate interest overrides the interests or the fundamental rights and freedoms of the data subject.

Article 2[1]
Bodies under the Service Regulations

(1)[2] There shall be set up within the Office:

(a) a Staff Committee,
(b) a General Consultative Committee,
(c) Disciplinary Committees,
(d) an Appeals Committee,
(e) Occupational Health, Safety and Ergonomics Committees,
(f) an Appraisals Committee,
(g)[3] a Joint Committee on Articles 52 and 53
(h)[4] a Data Protection Board

which shall perform the functions assigned to them under these Service Regulations.

1 Amended by decision of the Administrative Council CA/D 2/15. See also Article 9 CA/D 20/17.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 Inserted by decision of the Administrative Council CA/D 7/17.
4 Inserted by decision of the Administrative Council CA/D 5/21.

(2)[1] All employees referred to in Article 1 may act under the same conditions as members or chairs of the bodies defined in paragraph 1.

(3)[2] Unless otherwise provided in these Service Regulations, the chairs and deputy chairs of the bodies referred to in paragraphs 1(b) to (g) shall be appointed by the President of the Office.

(4)[3] Unless otherwise provided in these Service Regulations, any rules of procedure of the bodies referred to in paragraph 1(b) to (g) shall be adopted by the President of the Office.

(5)[4] The staff shall be represented on the bodies referred to in paragraph 1(b) to (e) and (g).

(6)[5] The President may extend the terms of office of all members of the bodies under paragraph 1(b), (c), (d), (e), (f) and (g) beyond the duration defined in the applicable provisions of these Service Regulations, within the limits of the terms of office of the Staff Committee members.

Chapter 2
Posts

Article 3[6]
Classification

(1) Annex I shall set out the different job groups and the corresponding range of grades within which posts may be classified by the appointing authority. The grades are determined by the level of mastery expected.

(2) By reference to Annex I, the appointing authority shall:

(a) define the tasks, responsibilities and competencies of the posts;
(b) classify a post in a specific job group and grade where applicable, by reference to the corresponding job profile, taking into account the nature of the duties and level of responsibilities involved as well as the qualifications and competencies required.

Article 3a[7]
Reclassification

(1) The appointing authority may decide to reclassify a post where it has been established that the nature of tasks and level of responsibilities and competencies have changed.

(2) An employee occupying a post which is reclassified at a lower grade shall

1 Modified by decision of the Administrative Council CA/D 2/18.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.
4 Amended by decision of the Administrative Council CA/D 7/17.
5 Amended by decision of the Administrative Council CA/D 7/17.
6 Amended by decision of the Administrative Council CA/D 10/14.
7 Inserted by decision of the Administrative Council CA/D 10/14.

remain in that post, whilst retaining their grade, until such time as they can be transferred within the Office to a post corresponding to their grade.

(3)[1] In the case of occupants of posts reclassified at a higher grade the appointing authority shall decide if the employee meets the requirements for the higher grade. Such a decision shall be taken after assessment of the qualifications, competencies and aptitude of the present occupant for the grade of the reclassified post. Employees must fulfil the conditions of access for the reclassified post as defined pursuant to Article 3.

Article 4[2]
Vacant posts

(1) If the appointing authority decides to fill a vacant post, it shall do so having regard to the relevant job profile and ability to perform the duties involved. Appointment shall be:

- by transfer at the same grade within the Office, either on the initiative of the appointing authority or at the request of the employee concerned;
- by transfer or promotion as a result of an internal competition open to all employees of the Office, in accordance with Article 7 or
- by recruitment, transfer or promotion as a result of a general competition open both to employees of the Office and to external candidates, in accordance with Article 7.

(2) The staff shall be informed of each vacant post when the appointing authority decides that the post is to be filled.

(3) Vacant posts shall be filled in the interests of the proper functioning of the Office and having regard to the need to offer opportunities for professional development to employees.

Chapter 3
Recruitment

Article 5
General recruitment criteria

(1) Recruitment shall be directed to securing for the Office the services of employees of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of the Contracting States.

(2)[3,4] Employees shall be selected without reference to ethnic origin, opinions or beliefs, gender, sexual orientation or disabilities.

1 Modified by decision of the Administrative Council CA/D 2/18.
2 Amended by decision of the Administrative Council CA/D 10/14.
3 Amended by decision of the Administrative Council CA/D 10/14.
4 Modified by decision of the Administrative Council CA/D 2/18.

(3) No particular post shall be reserved for nationals of any specific Contracting State.

Article 6[1]
Specific recruitment criteria

The appointing authority shall lay down specific recruitment criteria for each post regarding inter alia:

- qualifications;
- competencies;
- professional experience;
- language knowledge.

Article 7
Selection procedure[2]

(1)[3] Appointment pursuant to the second or third indent of Article 4, paragraph 1, shall be by way of competition in accordance with the procedure laid down in Annex II. A competition may be held for the purpose of constituting a reserve for future recruitment.

A procedure other than that of competition established in Annex II may be adopted by the appointing authority for the recruitment or appointment of the senior employees referred to in Article 11 of the European Patent Convention (hereinafter referred to as "the Convention"), for principal directors and also, in exceptional cases, for recruitment to posts which require special qualifications.

(2)[4] For each competition, a list of suitable candidates shall be drawn up at the end of the selection proceedings in accordance with the principles and rules listed in Articles 1a(1), 5 and 6. The appointing authority shall decide which of these candidates to appoint to the vacant post.

Article 8[5]
Appointment

(1) Employees shall be recruited to the Office on a permanent or fixed-term basis.

(2) A fixed-term appointment shall be an appointment for a specified duration of up to five years. It may be extended by express mutual agreement. For employees in job groups 4 to 6, the total duration of continuous service on such fixed-term appointment shall not exceed ten years. For employees in

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Amended by decision of the Administrative Council CA/D 10/14.
3 Amended by decision of the Administrative Council CA/D 10/14.
4 Modified by decision of the Administrative Council CA/D 12/24..
5 Modified by decision of the Administrative Council CA/D 2/18.

job groups 3 and above, a fixed-term appointment may be extended without any limit on its total duration. A fixed-term appointment shall not confer any right to either an extension or conversion into a permanent appointment.

(3) To be eligible for appointment as an employee, a candidate must fulfil the following requirements:

(a) they must be a national of one of the Contracting States, unless an exception is authorised by the appointing authority;
(b) they must enjoy their full rights as a citizen and produce satisfactory character references;
(c) they must be free from any irregularity in their status under the recruiting laws applicable to them concerning military or comparable service;
(d) they must meet the medical requirements of the post;
(e) they must have the diplomas and qualifications or equivalent professional experience required;
(f) they must have sufficient language knowledge for performing the duties to which they are to be assigned.

(4) Fixed-term appointments may be converted into permanent appointments under conditions laid down by the appointing authority, such as the needs of the service, satisfactory performance and quotas.

Article 9[1]
Initial medical examination

Before appointment, a successful candidate shall be medically examined by a medical practitioner designated by the President of the Office in order that the appointing authority may be satisfied that they fulfil the requirements of Article 8, paragraph 3, sub-paragraph (d).

Article 10
Date of effect of appointment

The written instrument appointing an employee shall state the date on which the appointment takes effect; this date shall not be prior to the date on which they take up their duties except in a duly substantiated case of force majeure.

1 Modified by decision of the Administrative Council CA/D 3/19.

Chapter 4
Assignment, temporary or additional duties and probationary period[1]

Article 11[2]
Assignment

(1) The appointing authority shall, acting solely in the interests of the service and without regard to nationality, assign to each employee the grade corresponding to the specific post to which they have been appointed pursuant to Article 4, paragraph 1. The President of the Office may lay down further terms and conditions for assignment.

(2)[3] Without prejudice to paragraph 3, the assignment shall be to:

- the lowest grade in each job group, except where the need to fill a vacant post within a higher grade so requires according to the vacancy notice;
- the lowest step within the assigned grade.

Any assignment to a different grade and step shall be duly substantiated.

(3)[4] Members of the Boards within the meaning of Article 1, paragraph 4, are assigned as follows on their first appointment:

(a) grade G 14, step 1, for members, and grade G 16, step 1, for chairs;
(b) grade G 17, step 1, for the President of the Boards of Appeal.

Article 11a[5]
Reassignment

In the interests of the service, the appointing authority may reassign an employee, together with their post, to duties corresponding to their grade.

Article 12[6]
Temporary or additional duties

(1)[7] Instead of their usual duties, an employee may be called upon to perform temporarily the duties of another post, including the duties of a post in a higher job group, on a full-time basis.

They shall be appointed *ad interim* and shall receive the basic salary which amounts to the first step and grade of the job group concerned or, if this does not give rise to an increase of salary, to the first possible step of the higher grade which does.

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Amended by decision of the Administrative Council CA/D 10/14.
3 Amended by decision of the Administrative Council CA/D 8/16.
4 Amended by decision of the Administratie Council CA/D 5/23.
5 Inserted by decision of the Administrative Council CA/D 10/14.
6 Amended by decision of the Administrative Council CA/D 10/14.
7 Modified by decision of the Administrative Council CA/D 2/18.

The duration of such temporary duties shall not exceed one year, except where, directly or indirectly, the posting is to replace an employee who is assigned to another post in the interests of the service or absent on medical grounds.

(2)[1] An employee may be called upon in their current grade to perform additional duties or duties involving specific demands.

They may receive a functional allowance defined by the appointing authority equivalent to a maximum amount of two monthly basic salaries per year within the budgetary limits available.

(3) The President of the Office may lay down further terms and conditions for temporary or additional duties.

Article 13[2]
Probationary period

(1)[3] Employees recruited for more than one year serve a probationary period upon appointment pursuant to Article 4, paragraph 1, in order to determine their ability to perform their duties as well as their efficiency and conduct in the service.

(2)[4] The period shall be:

- one year in case of recruitment or promotion; or
- six months in case of transfer or reassignment to different duties.

The appointing authority may decide in exceptional cases to extend the probationary period by a further period of up to the same length.

(3) Before the expiry of each period of six months within the probationary period, a report shall be made on the ability of the probationer to perform their duties as well as on their efficiency and conduct in the service. The report shall be communicated to the probationer, who shall have the right to submit comments in writing.

(4) (a) At the end of the probationary period and on the basis of the probationary report or reports, the appointing authority shall decide, in case of satisfactory fulfilment of duties, efficiency and conduct, to confirm the appointment.

(b)[5] A report on the probationer may be made at any time during the probationary period, if the fulfilment of their duties, their efficiency and their conduct are proving inadequate.

On the basis of the probationary report or reports, the appointing authority may:

1 Amended by decision of the Administrative Council CA/D 2/17.
2 Amended by decision of the Administrative Council CA/D 10/14.
3 Modified by decision of the Administrative Council CA/D 2/18.
4 Modified by decision of the Administrative Council CA/D 2/18.
5 Modified by decision of the Administrative Council CA/D 2/18.

- dismiss a new recruit on probation,
- decide that the probationer who has been transferred, promoted or reassigned shall return either to their previous post or, if this has been filled, to a post corresponding to the grade of their previous post for which they satisfy the requirements.

(5) Except where they are entitled forthwith to resume their duties with the national administration or the organisation in which they served prior to their recruitment to the Office, a new recruit on probation who is dismissed pursuant to paragraph 4, sub-paragraph b, first indent, shall receive compensation equal to two months' basic salary if they have completed at least six months' service, and to one month's basic salary if they have completed less than six months' service.

(6) A new recruit on probation may submit their resignation at any time during the probationary period. Without prejudice to paragraph 4, sub-paragraph b, resignation shall take effect as from the date proposed by the probationer provided this is earlier than the date on which the probationary period would normally have ended.

(7)[1] In the case of promotion or transfer other than on the initiative of the appointing authority, an employee may, at any time during the probationary period, request to return to their previous post or, if this has been filled, to a post corresponding to the grade of their previous post for which they satisfy the requirements.

(8)[2] This Article shall not apply to members of the Boards within the meaning of Article 1, paragraph 4.

1 Modified by decision of the Administrative Council CA/D 2/18.
2 Amended by decision of the Administrative Council CA/D 8/16.

TITLE II
RIGHTS AND OBLIGATIONS

Chapter 1
Conduct of employees[1]

Article 14[2]
Standards of conduct

(1) Employees shall conduct themselves at all times in a manner befitting their status as an international civil servant, embracing honesty, truthfulness, impartiality and incorruptibility.

(2) Employees shall at all times treat others, inside and outside the European Patent Organisation (hereinafter referred to as "the Organisation"), with professional respect and discretion.

(3) Employees shall abstain from any act and, in particular, any public expression of opinion which may reflect on the dignity of their office or which may pose a risk to or compromise the reputation and interests of the Organisation.

Article 14a[3]
General obligations

(1) An employee shall carry out their duties with integrity and loyalty, and act solely with the interests of the Organisation in mind. They shall neither seek nor take instructions from any government, authority, organisation or person outside the Organisation.

(2) An employee shall not, without the permission of the President of the Office, solicit or accept from any government or from any other source outside the Organisation any honour, decoration, favour, gift or payment of any kind whatsoever, except for services rendered either before their appointment or for military or other national service during a period of assignment to non-active status and in respect of such service.

(3) An employee shall use the assets, funds, property, information and other resources of the Office with due care and for authorised purposes only.

(4) An employee shall not be influenced in the performance of their duties by any extraneous or arbitrary considerations. They may not discriminate or allow personal preferences to unduly influence their professional conduct.

(5) An employee or former employee shall not use their position or authority, or the name, logos or privileges and immunities of the Office or the Organisation, or any information acquired in the course of or in connection with their

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.

duties, to unduly obtain benefits for themself or third parties, or for any other inappropriate purpose.

(6) An employee or former employee shall provide to the Office complete and truthful information relating to the performance of their duties or capacity to perform their duties, or to any circumstance which may be relevant for their entitlement to salary or to any allowance, reward, reimbursement, compensation, leave or other benefit. This obligation also applies for information provided to third parties administering emoluments and benefits of the social-security scheme under these Service Regulations, the Pension Scheme Regulations or other applicable regulations.

Article 14b[1]
Harassment

(1) An employee shall contribute to a work environment in which each individual is treated with respect and dignity. An employee or former employee shall refrain from engaging in any act of harassment or sexual harassment.

(2) Harassment is any unwelcome, severe or recurring, verbal, written or physical conduct which has the purpose or effect of humiliating or degrading any person, thereby creating an intimidating, hostile or offensive work environment, or of unreasonably interfering with that person's work or their ability to perform their assigned duties.

Harassment includes, but is not limited to:

(a) behaviour which is intended to be, or can reasonably be perceived as, inappropriate, offensive, intimidating, or hostile;
(b) vexatious assignments, requests or changes in duties or responsibilities; or
(c) severe or persistent criticism which is either unjustified or expressed in such a manner that it harms the dignity or reputation of an individual.

(3) Sexual harassment is any unwelcome sexual advance or unwelcome verbal, written or physical conduct of a sexual nature that unreasonably interferes with or negatively impacts a person's work or sexual self-determination, or which creates an intimidating, hostile or humiliating working environment.

Sexual harassment includes, but is not limited to:

(a) unsolicited displays of sexual images or the exhibition of materials of a sexually oriented nature;
(b) deliberate and unsolicited physical contact of an intimate or sexually suggestive nature;
(c) unwelcome use of obscene language or gestures, or the telling of obscene jokes;
(d) unsolicited requests for sexual favours;

1 Inserted by decision of the Administrative Council CA/D 7/17.

(e) requests for sexual favours explicitly or implicitly linked to access to employment, career development, or to continued employment, remuneration, or other benefit.

Article 15[1]
Special obligations of members of the Boards

(1)[2] When taking up their duties, members of the Boards shall give a solemn undertaking to perform their duties in accordance with the Convention and the principles of procedural law generally recognised in the Contracting States, to act, in taking decisions, without respect of persons, to act solely in the interests of truth and justice, and to maintain strict secrecy concerning the Boards' deliberations. The solemn undertaking shall be given orally before the Enlarged Board of Appeal composed pursuant to Article 22, paragraph 2, first sentence, of the Convention.

(2) Members of the Boards shall, both in the performance of their duties and otherwise, conduct themselves in such a manner as not to detract from confidence in their independence.

Article 16[3]
Incompatible activities

(1) An employee shall neither hold any office nor pursue any activity which is incompatible with the normal execution of their task, including any activity related directly to their function at the Office and performed independently of the latter for any purpose other than educational. In particular, an employee shall not participate directly or indirectly in the preparation or filing of an application for a patent for invention or any equivalent, or in any official proceedings relating to any such application or any resulting patent, whether on their own account or on behalf of others.

(2) An employee shall inform the President of the Office if their spouse is in gainful employment.

(3) Without prejudice to any disciplinary measures that may apply, any employee may be required:

- to terminate within a specified period any activity which is prohibited by paragraph 1;
- to take the steps required to terminate within a specified period any employment exercised by their spouse where such employment is in any way connected with the Organisation and proves to be incompatible with that of the employee.

1 Amended by decision of the Administrative Council CA/D 29/01.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.

If the activity or employment in question does not cease within the specified period, the employee may be transferred to another post or their service may be terminated in accordance with Article 53.

Article 17[1]
Conflicts of interest

(1) An employee or former employee shall avoid any situation in which personal interests interfere with the performance of their duties or call into question or appear to call into question the integrity, objectivity or impartiality required by their status, to the detriment of the Organisation (conflict of interest).

(2) An employee shall immediately inform their line manager of any potential conflict of interest, and shall take immediate action to resolve any real or apparent conflict of interest that arises.

(3) Any employee who, in the performance of their duties, is called upon to decide on a matter in which they have a conflict of interest such as to impair their independence shall inform the President of the Office.

(4) Paragraphs 2 and 3 shall not apply to members of the Boards, who in such a situation shall inform the President of the Boards of Appeal.

Article 18[2]
Election to public office

(1) An employee intending to run for public office shall inform the appointing authority prior to taking up any activity with a view to becoming a candidate. The appointing authority shall decide, in the light of the interests of the Organisation, whether the employee concerned:

(a) should be required to apply for unpaid leave on personal grounds for a period not exceeding three months, or
(b) should be required to apply for annual leave, or
(c) should be required to apply for authorisation to work part-time in accordance with the applicable provisions, or
(d) may continue to perform their duties as before.

(2) An employee elected or appointed to public office, or holding such office at the time of taking up their duties, shall immediately inform the appointing authority. The appointing authority shall review the administrative status of any employee elected to such office. The appointing authority shall, having regard to the interests of the Organisation, the importance of the office and the duties it entails for the holder, decide whether such employee should continue in active employment or should be granted unpaid leave on personal grounds. In the latter case, the duration of the leave shall be equal to the term for which the employee has been elected.

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 7/17.

Article 19[1]
Discretion

(1) An employee or former employee shall exercise the utmost discretion with regard to all facts and information coming to their knowledge in the course of or in connection with their employment.

(2) An employee or former employee shall not, without permission from the President of the Office, disclose, on any grounds whatever, information which has come to their knowledge in the course of or in connection with the performance of their duties and which has not already been made public.

(3) Paragraph 2 shall also apply in legal proceedings. In this case, permission may be refused only where the interests of the Organisation or of a Contracting State so require. It may not, however, be refused if, in the opinion of the court, this would be likely to lead to a miscarriage of justice.

(4) Paragraph 2 shall not apply to an employee or former employee giving evidence before the Administrative Tribunal of the International Labour Organization in a case concerning an employee or former employee of the Office.

Article 20[2]
Responsibility for the discharge of duties

(1) An employee shall be responsible for the discharge of the duties entrusted to them. The responsibilities of their subordinates shall in no way diminish the responsibilities devolving on them.

(2) Should an order received by an employee appear to them irregular, or should its execution seem to them likely to have undesirable consequences of a serious nature, they shall convey their opinion to their line manager, in writing if necessary. If the latter confirms the order in writing, the employee shall carry it out unless its execution would constitute an act contrary to the criminal law in force in the country of which the employee is a national or in the country in which the order is to be executed.

Article 20a[3]
Obligations after termination of service

(1) An employee shall, after leaving the service, continue to be bound by the duty to behave with integrity and discretion, in particular as regards the acceptance of certain appointments or benefits.

(2) A member of the Boards or former member of the Boards intending to engage in an occupational activity, whether gainful or not, within two years of leaving the service shall inform the Administrative Council thereof. If that activity is related to the work they carried out during the last three years of

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 11/22.
3 Amended by decision of the Administrative Council CA/D 7/17.

their service and could lead to a conflict with the integrity of the EPO's appeal system, the Administrative Council may, having regard to their interests and to those of the EPO's appeal system, either forbid them from undertaking it or give its approval subject to any conditions it thinks fit.

(3) The Administrative Council shall notify its decision within two months of the date on which the information was submitted to the first meeting of the Council after its receipt, taking due account of any specific provisions applicable for the submission of documents to the Council laid down in Article 9 of the Rules of Procedure of the Administrative Council.

(4) The decision under paragraph 3 shall be taken after consultation of the Boards of Appeal Committee.

(5) If no decision has been notified by the end of the period prescribed in paragraph 3, this shall be deemed to constitute implicit acceptance.

(6) Paragraphs 2 to 5 above shall cease to apply to former members of the Boards who have served five years or less one year after termination of their service.

(7) The Administrative Council may lay down further terms and conditions for the application of this Article, in particular with respect to the form and content of the information to be provided under paragraph 2.

Article 21[1]
Misconduct

(1) Any failure by an employee or former employee to comply with their obligations under these Service Regulations, whether intentionally or through negligence on their part, may constitute misconduct.

(2) An employee who, in the course of or in connection with their employment, becomes aware of facts which give rise to a presumption of the existence of misconduct shall without delay inform the unit in charge of investigating allegations or indications of misconduct, and shall transmit to it any information of which they are aware from which the existence of the irregularities may be presumed.

(3) The obligations in paragraph 2 shall not apply to any documents or information privileged under the legal framework of the Organisation; this shall not however affect the right of an employee to report facts which give rise to a presumption of the existence of misconduct.

(4) No one shall suffer any prejudicial effects as a result of having, in good faith, communicated the information referred to in paragraph 2 or of having cooperated in an investigative process. The Office shall take such measures as required to protect any such person from prejudicial effects. Retaliation against any such person constitutes misconduct as defined in paragraph 1.

1 Inserted by decision of the Administrative Council CA/D 7/17.

Article 21a[1]
Ethics and compliance

(1) An ethics and compliance function contributes to the promotion of integrity, ethics, and accountability throughout the Office and to preventing, detecting and addressing misconduct. It helps ensure that employees conduct themselves in a manner compliant with the applicable provisions.

(2) The facts relating to allegations or indications of misconduct shall be investigated objectively, impartially and in accordance with the principles of proportionality, due process, data protection and respect for all parties, and with all the applicable provisions. The investigation shall seek, establish and analyse all relevant evidence, inculpatory and exculpatory, with all due care and diligence.

(3) The investigative function shall be exercised independently and free from any undue interference.

(4) An employee or former employee shall be presumed to be innocent throughout the investigative process, and shall have the right to present evidence in their favour.

(5) An employee or former employee shall co-operate in the investigative process, and shall provide access to all relevant records and documents pertaining to the matter under review.

(6) An employee or former employee shall make themself available for meetings with the unit in charge of investigating allegations or indications of misconduct, shall provide truthfully, and to the best of their ability and knowledge, all information which may reasonably have a bearing on the case, and answer all pertinent questions. They may, however, remain silent on grounds relating to self-incrimination or to incriminating their spouse, civil union partner, or relatives in the first degree.

(7) If at the conclusion of the investigative process the unit in charge of investigating allegations or indications of misconduct finds that misconduct has occurred, it shall submit its report to the appointing authority of the employee concerned.

(8)[2] The investigative process is regulated further in the Implementing Rules.

(9) An employee or former employee shall maintain the confidentiality of the investigative process in order to protect the interests of all parties and the integrity of the process.

1 Inserted by decision of the Administrative Council CA/D 7/17.
2 See Implementing Rules for Articles 21, 21a and 93, paragraph 2, of the Service Regulations in part 1a.

Article 22[1]
Reparation

(1) Without prejudice to the right of the Organisation to seek reimbursement, reparation, damages or other relief through national authorities or courts, an employee may be required to make good, in whole or in part, any damage suffered by the Organisation caused wilfully by them or as a result of serious negligence on their part in the course of or in connection with the performance of their duties. This shall not apply where the damage results from a decision of a Board of Appeal or the Enlarged Board of Appeal.

(2) The appointing authority shall take a reasoned decision in this respect, after following the procedure laid down in regard to disciplinary matters.

(3) An employee shall continue to be bound by the obligation under paragraph 1 after leaving the service.

Chapter 2[2]
Other rights and obligations of employees

Article 23[3]
Copyright

Copyright relating to a work produced by an employee in the course of their duties shall belong to or be transferred to the Organisation unless the President of the Office waives it in favour of the employee concerned.

Article 24[4]
Publications

An employee or former employee shall not, whether alone or together with others, publish or cause to be published, without the permission of the President of the Office, any matter dealing with the work of the Organisation. Permission shall be refused only where the proposed publication is liable to prejudice the interests of the Organisation. Permission for publication of a work by a member of a Board may only be refused with the agreement of the authority referred to in Rule 12b, paragraph 1, of the Implementing Regulations to the Convention.

Article 25[5]
Residence

An employee shall reside either in the place where they are employed or at no greater distance therefrom than is compatible with the proper performance of their duties.

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Inserted by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.
4 Amended by decision of the Administrative Council CA/D 11/22.
5 Amended by decision of the Administrative Council CA/D 7/17.

Article 26
Medical examination

(1)[1] If they so wish an employee may undergo a preventive medical check-up performed by a medical practitioner and paid for by the Organisation. The Office may lay down further terms and conditions for the implementation of such examinations on the basis of sound medical and operational criteria.

(2)[2] An employee shall submit to any medical examination provided for in these Service Regulations or ordered by the President of the Office in the interests of the staff or of the service. The terms and conditions under which such medical examinations are performed shall be laid down by the President of the Office.

Article 26a[3/4]
Occupational health, safety and ergonomics

The President of the Office shall take appropriate measures to protect the health and safety of employees in all aspects related to work on the Office's premises, so as to ensure compliance with the national regulations referred to in Article 20(1) of the Protocol on Privileges and Immunities of the Organisation. To that end, the President of the Office shall endeavour in particular to conclude, with the contracting states on whose territory employees are deployed, complementary agreements of the kind referred to in Articles 20(2) and 25 of the Protocol on Privileges and Immunities of the Organisation.

Article 26b[5]
Occupational health physicians and occupational health and safety experts

The President of the Office shall appoint occupational health physicians and occupational health and safety experts. In the execution of their tasks these physicians and experts shall be completely independent and shall neither seek nor accept any instructions. They shall suffer no prejudice therefrom.

1 Amended by decision of the Administrative Council CA/D 2/17; see Circular No. 81.
2 Amended by decision of the Administrative Council CA/D 4/13.
3 Amended by decision of the Administrative Council CA/D 20/22.
4 Decision of the Administrative Council CA/D 23/07.

Article 14

The President of the Office is hereby authorised to negotiate and, subject to approval by the Administrative Council, conclude, with the contracting states on the territory of which employees of the Office are deployed, complementary agreements as referred to in Articles 20(2) and 25 of the Protocol on Privileges and Immunities of the Organisation. (Part II 16)

5 Inserted by decision of the Administrative Council CA/D 23/07.

Article 27[1]
Privileges and Immunities

When privileges and immunities provided for in the Protocol on Privileges and Immunities of the European Patent Organisation annexed to the Convention and in the complementary agreements concluded under Article 25 of that Protocol are in dispute, the employee concerned shall immediately inform the President of the Office.

Article 28
Assistance by the Organisation

(1) If, by reason of their office or duties, any employee, or former employee, or any member of their family living in their household is subject to any insult, threat, defamation or attack to their person or property, the Organisation shall assist the employee, in particular in proceedings against the author of any such act.

(2) If an employee or a former employee suffers injury by reason of their office or duties, the Organisation shall compensate them in so far as they did not provoke the injury wilfully or through serious negligence and have been unable to obtain full redress.

(3) To the extent to which they receive compensation from the Organisation the employee shall make over to it any claim they may have against any third party.

Article 29[2]
Vocational training

The Office shall facilitate such further training and instruction for employees as is compatible with the proper functioning of the service and is in accordance with the interests of the employees. Such training and instruction shall be taken into account for the purposes of their careers.[3]

Article 30[4]
Freedom of association

Employees shall enjoy freedom of association; they may in particular be members of trade unions or staff associations of European civil servants.

Article 30a[5]
Right to strike

1 See Part II, 16 and 17.
2 See Circular No. 267.
3 Amended by decision of the Administrative Council CA/D 34/07.
4 Modified by decision of the Administrative Council CA/D 2/18.
5 Deleted by decision of the Administrative Council CA/D 17/21.

Article 31
Communication to staff

All specific decisions regarding appointment and confirmation thereof at the end of the probationary period, promotion, transfer, determination of administrative status and termination of service of an employee shall be communicated to the staff.

Article 32[1/2]
Personnel file

(1) The personnel file of an employee shall contain:

(a) all documents relating to the employee's administrative position and all reports relating to their ability, efficiency and conduct;
(b) any comments by them on such documents and reports.

(2) The documents and reports referred to in paragraph 1 shall be registered, numbered and filed in serial order; the documents referred to in paragraph 1(a) may not be used or cited by the Office against an employee unless they were communicated to the employee at the latest at the time of filing.

(3) An employee shall be notified of the documents or reports referred to in paragraph 1 that are to form part of their personnel file.

(4) An employee's personnel file shall contain no reference to their political, philosophical or religious views.

(5) There shall be only one personnel file for each employee.

(6) An employee shall have the right, even after leaving the service, to consult all the documents or reports in their file.

(7) The personnel file shall be confidential. However, if an action concerning the employee is brought before the Administrative Tribunal of the International Labour Organization, the employee's personnel file shall be forwarded to the Tribunal at its request.

Article 32a[3]
Data protection oversight mechanisms

(1) The Data Protection Officer shall monitor the application of the provisions on the protection of personal data and advise the various operational units of the Office on fulfilling their obligations. The Data Protection Officer shall provide the operational units with the operational documentation necessary

1 See also the Implementing Rules for Articles 1b and 32a of the Service Regulations ("Data Protection Rules") in Part 3 as well as Circular No. 262 "Guidelines on Personal Files for EPO Employees".
2 Amended by decision of the Administrative Council CA/D 11/22.
3 Inserted by decision of the Administrative Council CA/D 5/21.

for the practical implementation of this Article and its Implementing Rules, such as workflows, handbooks, forms and templates.

(2) The Data Protection Board shall oversee that the fundamental rights and freedoms of natural persons, including their right to data protection, are respected in the application of the provisions on the protection of personal data. For this purpose, it shall provide independent, effective and impartial oversight of the provisions applicable to the protection of personal data.

(3) The Office shall offer data subjects effective and timely redress mechanisms with the aim of ensuring compliance with data protection requirements and the rights of the data subjects, which include effective legal redress and the right to claim compensation.

(4) The Data Protection Officer and any deputy shall act completely independently of any internal or external interference in performing their tasks and exercising their powers.

(5) The Data Protection Board shall act completely independently of any internal or external interference in performing its tasks and exercising its powers.

(6) The Data Protection Officer shall report regularly to the Administrative Council on the implementation of the Office's data protection framework.

(7) For the purposes of processing personal data in their judicial capacity, the Boards of Appeal may deviate from the above provisions in accordance with independent oversight mechanism rules.

Chapter 3[1]
Staff representation

Article 33[2]
Staff Committee

(1)[3] The Staff Committee shall comprise a Central Staff Committee and Local Staff Committees for each of the places of employment.

(2) Staff shall be represented by a local staff committee where more than fifty staff members are in active employment in a place of employment. If fewer than fifty staff members are in active employment in a place of employment, the President of the Office may provide for their representation by another existing local staff committee.

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 2/14.
3 Amended by decision of the Administrative Council CA/D 3/20.

Article 34[1]
Functions of the Staff Committee

(1) The Staff Committee shall represent the interests of all staff and maintain suitable contacts with the Administration. It shall contribute to the smooth running of the service by providing a channel for the expression of opinion by the staff.

(2) The duties undertaken by members of the Staff Committee and by their nominees to the bodies set up under these Service Regulations or by the Office shall be deemed to be part of their normal service. The fact of performing such duties shall in no way be prejudicial to the person concerned.

(3) The President of the Office shall grant the members of the Staff Committee the resources and facilities required to exercise their functions.

Article 35[2]
Composition and election of the Staff Committee

(1) The members of the Local Staff Committees shall be directly elected by staff.

(2) The membership of the Central and Local Staff Committees shall be such as to ensure the appropriate representation of all job groups and places of employment on the Staff Committee. This principle shall apply only to the extent that such employees are employed in the places in question.

(3) The Central Staff Committee shall consist of ten full and ten alternate members who shall be elected by the Local Staff Committees as follows: four full and four alternate members by each of the Local Staff Committees of Munich and The Hague; one full and one alternate member by each of the Local Staff Committees of Berlin and Vienna.

(4) The President of the Office shall determine the number of Local Staff Committee members, taking into account the number of staff members in active employment in each place of employment as follows:

(a) Subject to Article 33, paragraph 2, four Local Staff Committee members shall be elected at each place of employment to represent the first 1 000 staff in active employment plus one further member for each additional 500 staff in active employment. Two additional Local Staff Committee members shall be elected at each of the two main sites, Munich and The Hague.

(b) To allow for the indirect election of the Central Staff Committee members in accordance with paragraph 8, subparagraph (a), read in conjunction with paragraph 3, eight additional Staff Committee members shall be elected in Munich and The Hague respectively, and two additional Staff Committee members shall be elected in Vienna and Berlin respectively.

1 Amended by decision of the Administrative Council CA/D 2/14.
2 Amended by decision of the Administrative Council CA/D 3/23.

(c) The Munich Local Staff Committee shall represent staff at the Brussels Office unless the Brussels staff decide otherwise.

(5) The following shall apply to the election of members of the Local Staff Committee:

(a) Local Staff Committee members shall be elected by secret ballot and the elections shall take place at the same time for all Local Staff Committees.

(b) All employees referred to in Article 1 in active employment with at least three months' service shall be entitled to vote and to be elected. Employees standing for election shall have a remaining term of employment of a minimum of one year from the start of their term of office on the Staff Committee. Standing as a candidate for election or being elected shall not lead to the automatic extension of an employee's term of employment. The term of office of Staff Committee members shall end when their term of employment ends.

(c) The regulations regarding the election of a Local Staff Committee shall be determined at a general meeting of the employees of the Office in service at that place of employment.

(d) The chair of each Local Staff Committee shall notify the President of the Office of the election regulations determined under subparagraph (c) and under paragraph 8, subparagraph (a), at the latest six months prior to the end of the term of office of the Local Staff Committee members.

(6) Subject to the above provisions, the members of staff of each category shall have complete freedom in the choice of their representatives.

(7) The term of office of a Staff Committee member shall be three years.

(8) The following shall apply to the election of members of the Central Staff Committee:

(a) Each Local Staff Committee respectively shall elect members of the Central Staff Committee from among its members. The regulations regarding the election of the members of the Central Staff Committee shall be determined at a general meeting of the employees of the Office in service at the place of employment of the respective Local Staff Committee.

(b) The chairs of the Local Staff Committees shall inform the President of the Office in writing which of their members have been elected to the Central Staff Committee. This notification shall be made within ten working days of the newly elected Local Staff Committees taking up their duties.

(c) By way of exception, if the chair of a Local Staff Committee fails to notify the President of the Office within that time frame, the Local Staff Committee members who obtained the most votes at the last election of that Committee shall be appointed to the Central Staff Committee temporarily until the notification under subparagraph (b) has been made. In the event of a tie in the number of votes obtained in the last

election of that Committee, the seats shall be allocated to the persons with the longest length of service.

Article 36[1]
Competence of the Central Staff Committee

(1)[2] All full members of the Central Staff Committee shall represent the staff on the General Consultative Committee. If any full member is unable to perform their duties, they shall be replaced by an alternate.

(2) The Central Staff Committee shall be responsible for:

(a)[3] making appointments to the bodies under the Service Regulations or as requested by the President of the Office. Save for the members of the Appeals Committee, the Disciplinary Committees and the Joint Committee on Articles 52 and 53, the respective appointments shall be made from among elected Staff Committee members at local or central level. By way of exception, if the Central Staff Committee, despite an invitation to do so, fails to make appointments to these bodies, the President shall take appropriate steps to ensure the necessary appointments, by calling for volunteers or drawing lots from among eligible employees. If an employee appointed in accordance with such exceptional procedures fails or refuses to serve on the body to which they have been appointed, the President shall replace that employee by drawing lots among employees with managerial responsibilities in job groups 2 to 4.

(b) making, at the request of the President of the Office or on its own initiative, suggestions relating to the organisation and working of departments or the collective interests of the whole or part of the staff.

(c) examining any difficulties of a general nature relating to these Service Regulations or any Implementing Rules thereto and, where appropriate, addressing them in the General Consultative Committee.

Article 37[4]
Competence of the Local Staff Committees

(1) Each Local Staff Committee shall be:

(a) consulted on any proposal to make rules and, in general, except in cases of obvious urgency, any proposal which concerns the conditions of employment of the whole or part of the staff at the place of employment concerned;

(b) consulted on any question of a local nature submitted to it by the President of the Office or his representative;

1 Amended by decision of the Administrative Council CA/D 2/14.
2 Amended by decision of the Administrative Council CA/D 11/22.
3 Amended by decision of the Administrative Council CA/D 11/22.
4 Amended by decision of the Administrative Council CA/D 2/14.

(c) competent to raise site-specific issues only in so far as they are not subject to consultation of a Local Occupational Health, Safety and Ergonomics Committee;
(d) responsible for maintaining suitable contacts with the local Administration.

(2) Each site manager shall set up meetings with the Local Staff Committee at least twice a year.

Article 38[1]
General Consultative Committee

(1) The General Consultative Committee shall consist of:

- the President of the Office as Chair, with the power to delegate this function of Chair;
- all full members of the Central Staff Committee and in their absence their alternates;
- an equivalent number of full members appointed each year by the President of the Office and in their absence their alternates.

(2) The General Consultative Committee shall, in addition to the specific tasks given to it by the Service Regulations, be consulted on:

- any proposal to amend these Service Regulations or the Pension Scheme Regulations, any proposal to make implementing rules and, in general, except in cases of obvious urgency, any proposal which concerns the conditions of employment of the whole or part of the staff to whom these Service Regulations apply or the recipients of pensions;
- any question of a general nature submitted to it by the President of the Office;
- any question which the Staff Committee has asked to have examined in accordance with the provisions of Article 36 and which is submitted to it by the President of the Office.

(3) Following the consultation, the members of the General Consultative Committee shall express their opinion by voting at the meeting for or against each proposed measure or abstaining. The Chair shall not vote save on procedural questions.

(4) Furthermore, the President of the Office may inform the General Consultative Committee on any other question of a general nature which is not subject to compulsory consultation under the Service Regulations.

(5) The General Consultative Committee's discussions shall be recorded and summarised in minutes.

(6) The President of the Office may set up sub-committees within the General Consultative Committee which shall, through their special knowledge of areas such as social security, training and salaries, prepare for the Com

1 Amended by decision of the Administrative Council CA/D 2/14.

mittee's discussions. The President of the Office shall appoint a chair to each sub-committee.

(7) The General Consultative Committee shall meet at least four times per year, when convened by the Chair. In addition, the Chair may convene the General Consultative Committee for extraordinary meetings.

(8)[1] This Article does not apply to any proposal which concerns the conditions of employment of the members of the Boards within the meaning of Article 1, paragraph 4 and is made by the President of the Boards of Appeal in the exercise of the functions and powers delegated to him by the President of the Office[2]. In such cases the President of the Boards of Appeal shall consult the Presidium of the Boards of Appeal within the terms of Rule 12b(3) of the Implementing Regulations to the Convention.

Article 38a[3]
Occupational Health, Safety and Ergonomics Committees

(1) The advisory Occupational Health, Safety and Ergonomics Committees shall consist of:

- a Central Committee which shall present its opinions and recommendations to the President of the Office;
- Local Committees which shall present their opinions and recommendations to the person appointed by the President of the Office as the site manager.

(2)[4] They shall comprise:

- a Chairman who shall be appointed each year by the President of the Office and who shall not vote except on procedural questions;
- [5] members and alternates appointed at the same time by the President of the Office and by the Staff Committee pursuant to Article 36(2)(a).

These members, the number of whom shall be laid down in Implementing Rules, shall be selected in such a way as to ensure appropriate representation of the various places of employment and of the persons concerned with questions of occupational health, safety and ergonomics. In particular, the occupational health physicians and occupational health and safety experts shall be ex officio members of the Local Committees. The occupational health physicians and the occupational health and safety experts in Munich and The Hague shall be ex officio members of the Central Committee.

Only employees at the place of employment concerned may be selected as members of the relevant Local Committee, except for members whose

1 Inserted by decision of the Administrative Council CA/D 3/19.
2 Act of Delegation of functions and powers from the President of the European Patent Office to the President of the Boards of Appeal (OJ EPO 2018, A63).
3 Inserted by decision of the Administrative Council CA/D 23/07.
4 Amended by decision of the Administrative Council CA/D 22/09.
5 Amended by decision of the Administrative Council CA/D 2/14.

duties are not performed by an employee at that place of employment.

The alternate members shall participate only when they replace full members.

(3) The Central Occupational Health, Safety and Ergonomics Committee shall be responsible for:

- formulating, on its own initiative and on an unrestricted basis, proposals on all aspects of occupational health, safety and ergonomics affecting the staff at more than one place of employment;
- giving a reasoned opinion on all measures and reports relating to occupational health, safety and ergonomics on all premises of the Office.

(4) The Local Occupational Health, Safety and Ergonomics Committees shall be responsible for:

- formulating, on their own initiative and on an unrestricted basis, proposals on all aspects of occupational health, safety and ergonomics affecting the staff at the place of employment concerned;
- giving a reasoned opinion on all measures and reports relating to occupational health, safety and ergonomics on the premises of the place of employment concerned.

(5)[1] The Committees shall be responsible for occupational health, safety and ergonomics policy. In the event that they draw up recommendations concerning the staff on their own initiative, these Committees shall not replace the General Consultative Committee.

(6) The Committee members shall have access to all information necessary for their work. To that end, the President of the Office shall keep the Central Committee or the relevant Local Committee informed of any projects envisaged or implemented affecting its area of competence. The President of the Office shall inform the relevant Local Committee if an accident occurs on Office premises, in accordance with the national legislation in force in the country concerned, or if an incident occurs which could have had serious consequences.

1 Amended by decision of the Administrative Council CA/D 2/14.

TITLE III
CAREER

Chapter 1
Administrative status

Article 39
Administrative status

(1) An employee shall be assigned to one of the following administrative statuses:

(a) active employment;
(b) non-active status;
(c) reserve status.

(2)[1] An employee shall be deemed to be in active employment unless, by virtue of a formal provision, they are assigned to a different administrative status either automatically or pursuant to a decision by the competent authority.

Section 1
Active employment

Article 40[2]
Definition of active employment

An employee is in active employment where they:

(a) perform, under the conditions of Title IV, the duties pertaining to the post to which they have been assigned or which they temporarily occupy;

(b) are on secondment.

Article 41[3]
Boards of Appeal

(1) A permanent employee appointed as a member of a board in accordance with Article 11, paragraph 3, of the Convention shall from the date of their appointment, cease to perform the duties attaching to their previous post which thereby becomes vacant.

(2) If, during their term of office, the permanent employee applies for a vacant post other than the one provided for in Article 11, paragraph 3, of the Convention and is appointed or transferred to that post, they shall be deemed, by virtue of such application, to have requested to be relieved of their duties

1 Amended by decision of the Administrative Council CA/D 8/22.
2 Amended by decision of the Administrative Council CA/D 8/22.
3 Amended by decision of the Administrative Council CA/D 8/22.

as a member of a board on the date of their appointment or transfer, which request will be executed from that date.

(3) If their term of office is not extended upon expiry, the permanent employee shall at once be assigned to a post corresponding to their grade and involving other duties than those provided for in Article 11, paragraph 3, of the Convention, even if this entails an increase in the staff complement.

(4) On no account shall the performance of the duties of a member of a board avoid the application of the provisions of Article 54 of these Regulations.

Section 2
Non-active status

Article 42
Definition of non-active status

(1)[1] An employee may be assigned to non-active status as follows:

(a) to fulfil obligations regarding military service or comparable service;
(b) for reasons of parental leave;
(c) for reasons of family leave;
(d) on personal grounds.

(2) Save as otherwise expressly provided for in these Service Regulations, an employee assigned to non-active status shall not be entitled to remuneration.

(3)[2] A fixed-term appointment shall not be extended by any period of non-active status.

Article 43[3]
Military service

(1) An employee who is called up for military service or for reserve training or is recalled to serve in the armed forces or is called up for a period of comparable service shall be assigned to non-active status.

(2) An employee who is called up for military or comparable service shall cease to receive their remuneration. They shall retain their right to a retirement pension if, after completing such service, they retroactively pay their contributions to the pension scheme applicable to them. In that case they shall where applicable also retroactively pay their contributions to the salary savings plan. At the end of such service an employee shall at once be reinstated in a post corresponding to their grade, even if this entails an increase in the staff complement.

1 Amended by decision of the Administrative Council CA/D 8/22.
2 Inserted by decision of the Administrative Council CA/D 2/18.
3 Amended by decision of the Administrative Council CA/D 8/22.

(3) An employee who is called up for reserve training or recalled to serve in the armed forces shall, during the period of training or recall, continue to receive their remuneration subject to deduction of an amount equal to their service pay.

Article 44[1]
Leave on personal grounds

(1) An employee may, in exceptional circumstances and at their own request, be granted unpaid leave on personal grounds.

(2) Without prejudice to the provisions of Article 18 the duration of such leave shall not exceed one year. Such leave may be extended for further periods. Extensions may be for periods not exceeding one year. The total length of leave on personal grounds may not exceed 10 years in the course of the employee's entire career at the Office.

(3)[2]

(4) One month after the commencement of such leave, the employee's membership of the social security and incapacity schemes provided for under Chapter 2 (Social Security) of Title V and Article 62c and cover for risks under that scheme shall be suspended unless the employee asks to become a voluntary member of the social security scheme. In that case the employee shall pay both the employer's and their own contributions. If the duration of such leave does not exceed two months, the employee may, on request, remain a member of the pension scheme applicable to them and continue to participate in the salary savings plan, provided that period does not confer entitlement to pension benefits arising from new employment. During that period they shall continue to pay their contributions to the pension scheme applicable to them and, where applicable, to the salary savings plan.

(5) Unpaid leave on personal grounds shall be governed by the following rules:

(a) it shall be granted at the request of the employee concerned by the appointing authority;
(b) application for extension shall be made at least two months before the leave expires;
(c) another person may be appointed to the post occupied by the employee concerned;
(d) on the expiry of their leave the employee concerned shall be reinstated in their post or, if this has been filled, in the first post corresponding to their grade which falls vacant or is created provided that they satisfy the requirements for that post. If the employee declines the post offered, they shall retain their right to reinstatement when the next vacancy corresponding to their grade occurs, subject to the same proviso; if they decline a second time, their service may be terminated in accordance

1 Amended by decision of the Administrative Council CA/D 8/22.
2 Deleted by decision of the Administrative Council CA/D 10/14.

with Article 53. Until effectively reinstated they shall remain on unpaid leave on personal grounds.

(6) Any period of voluntary military or comparable service shall be considered as unpaid leave on personal grounds unless it is deducted from the employee's normal annual leave.

(7) The appointing authority may lay down further terms and conditions for the application of this Article.

Article 44a[1]
Parental leave

(1) An employee is entitled to up to 120 working days' parental leave for every dependent child within the meaning of Article 69, to be taken before the child's twelfth birthday. This entitlement is doubled for single parents.

(2) During parental leave, the employee ceases to be entitled to remuneration, but is paid a monthly allowance equal to 25% of the reference, said reference being the basic salary for Grade G4, step 4. For single parents, or during the first 60 working days of parental leave where such leave is taken by the father during a period of maternity leave as defined by Article 61, or where such leave is taken by either parent immediately after maternity leave or during or immediately after adoption leave, the monthly allowance is 33% of the reference. For periods of half-time parental leave, the monthly allowance is reduced by half.

Employees continue to be entitled to the dependant's allowance and the education allowance, but cease to be entitled to annual and home leave.

(3) During parental leave, the employee remains a member of the social security and incapacity schemes provided for under Chapter 2 (Social Security) of Title V and Article 62c. Contributions to the social security scheme are borne in full by the Office. They are calculated on the basis of the employee's basic salary, as if they were in full-time active employment.

(4) During parental leave, the employee's membership of the pension scheme applicable to them continues unless the employee expressly requests that it be suspended. Where applicable, the same applies to their participation in the salary savings plan. The employee continues to pay the employee contribution to the pension scheme applicable to them and, where applicable, to the salary savings plan. Contributions to the pension scheme and, where applicable, to the salary savings plan are calculated as if the employee were in fulltime active employment.

(5) Parental leave is governed by the following rules:

(a) it may be taken as half-working days;
(b) any period of parental leave taken, be it full-time or half-time, must amount to at least 7 successive calendar days;

1 Amended by decision of the Administrative Council CA/D 21/22.

(c) during parental leave, the employee may not engage in any other gainful employment;
(d) the employee retains their post.

Article 44b[1]
Family leave

(1) An employee, during their career in the Office, shall be entitled to up to 180 working days' family leave, in the case of the medically certified serious illness or disability of an employee's spouse, relative by blood or marriage in the ascending line, relative in the descending line, brother or sister. If the doctor consulted refuses to issue a medical certificate, the employee shall supply the Office with that doctor's name and address.

(2) The provisions of Article 44a, paragraphs 2, 3, 4 and 5, shall apply by analogy, with the exception of paragraph 2, second sentence, which shall not be applicable.

Section 3[2]
Secondment

Article 45[3]
Secondment

(1) The appointing authority may, in the interests of the service, second an employee temporarily to a public or private body.

(2) Secondment shall be governed by the following rules:

(a) the decision on secondment shall be taken by the appointing authority with the agreement of the employee concerned;
(b) the duration of secondment shall be determined by the appointing authority;
(c) at the end of every six months, the employee concerned may request that this secondment be terminated;

1 Amended by decision of the Administrative Council CA/D 8/22.
2 Inserted by decision of the Administrative Council CA/D 8/22.
3 Decision of the Administrative Council CA/D 8/22.
(1) The conditions for secondment under new Article 45 of the Service Regulations shall apply to employees whose secondment starts on or after the date of entry into force of this decision.
(2) Employees on leave on personal grounds when this decision enters into force may request an extension of their leave under the conditions of revised Article 44(2) of the Service Regulations.

(d) an employee on secondment shall:

- remain entitled to their remuneration;
- remain a member of the social security scheme, the pension scheme applicable to them and, where applicable, the salary savings plan;
- where appropriate, be entitled to reimbursement of additional expenses entailed by their secondment in accordance with these Service Regulations;

(e) when their secondment ends an employee shall at once be reinstated in their post or in a post corresponding to their grade, even if this entails an increase in the staff complement.

(3) The appointing authority may, in the interests of the service, authorise the secondment of an employee from a public or private body to the Office.

(4) The appointing authority may lay down further terms and conditions for the application of this Article.

Section 4
Reserve status

Article 46
Reserve status

(1) A permanent employee shall be assigned to reserve status if they have become supernumerary by reason of a reduction in the number of posts, decided upon by the Administrative Council under the budgetary procedure, and if they cannot be assigned to any other post corresponding to their grade within the Office.

(2) The appointing authority shall decide what types of posts are to be affected by this measure. It shall draw up a list of the permanent employees to be affected, taking into account the permanent employee's ability, efficiency, conduct in the service, family circumstances and seniority. Any permanent employee occupying one of the posts referred to in the preceding paragraph who expresses the wish to be assigned to reserve status shall automatically be entered on this list.

(3) Where the appointing authority is the President of the Office, the decisions referred to in paragraph 2 shall be taken after consulting the General Consultative Committee[1]. Permanent employees whose names appear on the list referred to in paragraph 2 shall be assigned to reserve status by decision of the appointing authority.

1 Amended by decision of the Administrative Council CA/D 2/14.

(4)[1] Upon assignment to reserve status the permanent employee shall cease to perform their duties and cease to enjoy their right to remuneration; they shall be entitled to the benefits provided for in Annex VI.

(5) For a period of two years from the date on which assignment to reserve status takes effect a permanent employee shall have priority for reinstatement in any post corresponding to their grade which may fall vacant or be created, provided that they possess the necessary qualifications and ability.

(6)[2] The appointing authority may decide, in accordance with Article 53, paragraphs 2 and 3, to terminate the service of an employee who, before expiry of the two-year period, has been offered a post corresponding to their grade and has declined without good reason. Their service shall, unless they are reinstated in the meantime, be terminated automatically at the end of the period of reserve status resulting from the application of Annex VI. They shall, as appropriate, receive a retirement pension or severance grant as provided in the pension scheme applicable to them. Where applicable, they shall also receive the portion of remuneration owed on termination of service as a result of their participation in the salary savings plan.

Chapter 2
Professional development[3]

Article 47[4]
General principles and structure of the career system

(1) The career system shall offer opportunities for professional development based on performance and competencies, within the available budgetary limits.

(2) Professional development shall take place either within or between the following two career paths:

(a) technical or
(b) managerial.

The managerial career path shall comprise all posts with staff responsibility as defined by the President of the Office. The technical career path shall comprise all non-managerial posts.

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Amended by decision of the Administrative Council CA/D 17/08.
3 Amended by decision of the Administrative Council CA/D 10/14.
4 Amended by decision of the Administrative Council CA/D 10/14.

Article 47a[1/2]
Appraisal reports

(1) The assessment of performance and competencies is a managerial responsibility. It shall be conducted in a fair and objective manner.

(2)[3] The ability, efficiency and conduct in the service of each employee, with the exception of the President and Vice-presidents, shall be the subject of an appraisal report made at least once a year under the conditions established by the appointing authority.

This does not apply if the employee is absent for the whole year.

(3) The appraisal report shall be communicated to the employee concerned who shall be entitled to make any comments thereon which they consider relevant.

Article 48[4]
Step advancement

(1) Within the budgetary limits available, depending on performance and demonstration of the expected competencies, an advancement of up to two steps in grade may take place every year.

(2) The appointing authority may lay down further terms and conditions for step advancement.

(3)[5] This Article shall not apply to members of the Boards within the meaning of Article 1, paragraph 4.

Article 48a[6]
Bonus

(1) A bonus may be granted in the form of a lump-sum payment inter alia in case of particularly high performance and/or additional duties not otherwise rewarded.

(2) The appointing authority may lay down further terms and conditions for the bonus.

(3)[7] This Article shall not apply to members of the Boards within the meaning of Article 1, paragraph 4.

1 Inserted by decision of the Administrative Council CA/D 10/14.
2 According to Rule 12d(3) EPC, the President of the Boards of Appeal establishes the conditions for the appraisal of members of the Boards within the meaning of Article 1, paragraph 4.
3 Amended by decision of the Administrative Council CA/D 12/24.
4 Amended by decision of the Administrative Council CA/D 10/14.
5 Inserted by decision of the Administrative Council CA/D 8/16.
6 Inserted by decision of the Administrative Council CA/D 10/14.
7 Inserted by decision of the Administrative Council CA/D 8/16.

Article 49[1]
Promotion

(1) Promotion is the access to a higher grade. It may take place following different procedures, as further described below:

- normal promotion procedure;
- selection procedure;
- reclassification procedure.

(2) Access to the next immediate higher grade within the same post may result from a normal promotion procedure upon a decision taken by the appointing authority on proposal from the employee's line management, under the following conditions:

- having reached the last step in the current grade and
- proven performance and demonstration of the expected competencies over a period of several years;
- broadening or deepening of the employee's tasks, experience, competencies and responsibilities.

The appointing authority shall take its decision each year, within the budgetary limits available.

(3) A promotion may also result from a selection procedure for another post pursuant to Article 4, paragraph 1, second or third indent.

This selection procedure is open to all employees, regardless of their current grade.

(4) A promotion within the same post may exceptionally result from a reclassification pursuant to Article 3a, paragraph 3.

(5) Promotion shall be to the lowest step in the new grade.

In no case may a promotion of an employee result in a reduction in their total net remuneration.

If the promotion does not result in any increase in their basic salary, the employee shall be assigned to the step of the new grade immediately above their current salary.

(6)[2] Paragraphs 2 and 4 of this Article shall not apply to members of the Boards within the meaning of Article 1, paragraph 4.

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Inserted by decision of the Administrative Council CA/D 8/16.

Article 49a[1]
Professional development for members and chairs of the Boards

(1) Members may be promoted to grade G 15, step 1, and may subsequently advance to grade G 15, step 4, in each case provided that:

(a) they have completed at least five years at the previously assigned grade and step; and
(b) the President of the Boards of Appeal has recommended them for this, based on their proven performance and their demonstration of the expected competencies over a period of time.

(2) Chairs may advance to grade G 16, step 4, provided that:

(a) they have completed at least five years at grade G 16, step 1; and;
(b) the President of the Boards of Appeal has recommended them for this, based on their proven performance and their demonstration of the expected competencies over a period of time.

Chapter 3
Termination of service

Article 50[2]
Termination of service

(1) Service shall be terminated by:

(a) resignation;
(b)[3] dismissal by the appointing authority;

(i) for professional incompetence under Article 52;
(ii) as a result of disciplinary measures under Article 94;
(iii) for any of the reasons set out in Article 53;
(iv) for the reasons set out in Article 13, paragraph 4(b);

(c) retirement; or
(d) death.

(2) Service on a fixed-term appointment shall also terminate on the expiry date specified in the letter of appointment or of any subsequent extension.

1 Inserted by decision of the Administrative Council CA/D 5/23..
2 Amended by decision of the Administrative Council CA/D 2/18.
3 Amended by decision of the Administrative Council CA/D 7/17.

Article 51
Resignation

(1) An employee who wishes to resign shall state unequivocally in writing their intention to terminate their service at the Office.

(2) The appointing authority shall take its decision confirming the resignation within one month of receiving the letter of resignation. The appointing authority may, however, refuse to accept the resignation if disciplinary proceedings against the employee are in progress at the date of receipt of the letter of resignation or if such proceedings are started within the following thirty days.

(3)[1] Resignation shall take effect on the date specified by the appointing authority; that date shall not be more than three months after the date proposed by the employee in their letter of resignation.

Article 52[2]
Professional incompetence

(1) In respect of employees for whom they are the appointing authority, the President shall define procedures to identify, deal with and remedy cases of lack of ability and efficiency in a timely and appropriate fashion.

(2) If, after the procedures provided for in paragraph 1 have been exhausted, an employee, on the basis of consecutive appraisal reports referred to in Article 47a, still proves incompetent in the performance of their duties, they may for that reason be dismissed, classified in a lower job group with or without downgrading, or downgraded.

(3) The President shall take such decision after consulting the Joint Committee on Articles 52 and 53, in accordance with the procedure set out in Article 53b.

(4) The notice period in case of dismissal for incompetence shall be one month per full year of completed service, but shall not be less than three months or greater than nine. It shall commence on the first day of the month following the date of notification of the decision to dismiss the employee. It shall be increased by one month if the dismissed employee's home as defined in Article 60, paragraph 2, is in a country other than that in which they are employed. At the discretion of the appointing authority, dismissal shall take immediate effect, and compensation corresponding to the notice period shall be paid instead.

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Amended by decision of the Administrative Council CA/D 7/17. For entry into force and transitional provisions, see Article 83 of CA/D 7/17.

Article 53[1]
Termination of service for other reasons

(1) The appointing authority may decide to terminate the service of an employee:

(a) if the Contracting State of which the employee is a national ceases to be party to the Convention;
(b) if the employee refuses to be transferred to a country other than that in which they are serving;
(c) if, in the case of an employee appointed by the Administrative Council in accordance with Article 11, paragraphs 1 and 2, of the Convention, the Administrative Council so decides in the interests of the Organisation;
(d) who has been in continuous service for one year or less on a fixed-term appointment;
(e) if as a result of their own actions, they cease to fulfil the conditions laid down in Article 8, sub-paragraph (a) or (b); or
(f) in the other cases expressly provided for in these Service Regulations.

(2) Reasoned decisions terminating the service of an employee shall be taken by the appointing authority after hearing the employee concerned.

(3) Where the appointing authority is the President of the Office, they shall take their decision to terminate the service of an employee for one of the reasons provided for in paragraph 1 except for (d) after consulting the Joint Committee on Articles 52 and 53 in accordance with the procedure set out in Article 53b, except in the case of Article 13 or Article 46, paragraph 6, or where service has been terminated as a result of a disciplinary measure.

(4) The notice period in case of termination of service for one of the reasons provided for in paragraph 1 shall be one month per full year of completed service, but shall not be less than one month or greater than five. It shall commence on the first day of the month following the date of notification of the decision to terminate the employee's service. At the discretion of the appointing authority, this decision shall take immediate effect, and compensation corresponding to the notice period shall be paid instead.

(5) An employee (i) whose service is terminated for one of the reasons set out in paragraph 1(a) to (c) or (ii) who does not receive an offer to extend or convert their fixed-term appointment shall be entitled to receive the indemnity for loss of job provided for in paragraph 6 unless they were employed in their national administration before their appointment by the Office and are immediately reintegrated into that administration.

(6) The loss of job indemnity shall be: (i) 1 month's basic salary as set out in Annex III for the first five years of continuous service, 1.25 months' basic salary for the following five years of continuous service and 1.5 months' basic salary for any further years of continuous service, (ii) together with, where appropriate, the household and dependant's allowance, (iii) the total being multiplied by a coefficient representing the number of years' and

1 Amended by decision of the Administrative Council CA/D 20/23.

fractions of years' service at the Office. The indemnity may not be more than the remuneration payable in respect of 24 months' service or the number of months remaining before the employee reaches the age of (i) 60 where they have become eligible for a retirement pension under the Office's pension schemes or (ii) 65 where they have not become eligible for a retirement pension under the Office's pension schemes. The indemnity shall be paid to the employee on the date on which they leave the Office and shall be calculated on the basis of the remuneration rates in force on that date.

Article 53a[1]
Joint Committee on Articles 52 and 53

(1) The Joint Committee on Articles 52 and 53 (hereinafter referred to as "the Joint Committee") shall comprise a chair and four members, unless it is enlarged in accordance with paragraph 2. The chair and members may be replaced by their alternates.

(2) In cases involving an employee in job group 4, 5 or 6, the Joint Committee shall be enlarged by two additional members in active employment in the same job group as the employee concerned.

(3) The President shall appoint to the Joint Committee the chair and alternate, from among employees in active employment in job group 2 appointed by the President.

(4) Members and alternates shall be appointed as follows, from among the employees in active employment appointed by the President:

(a) from job group 2 in respect of cases concerning employees in job group 2;
(b) from job group 2 or 3 in respect of cases concerning employees in job groups 3 to 6.

(5) The provisions of Article 98, paragraphs 3 to 6, shall apply *mutatis mutandis*.

Article 53b[2]
Procedure before the Joint Committee

(1) The provisions of Article 98a, Article 99, Article 101 paragraphs 1 to 4 and paragraph 6, and Article 102, paragraphs 1 and 3 shall apply mutatis mutandis to the procedure before the Joint Committee.

(2) The Joint Committee shall, within two months of the date of receipt of the report of the President that initiated the proceedings, transmit its reasoned opinion to the President and to the employee concerned.

(3) The reasoned opinion of the Joint Committee shall state the measure which it considers appropriate in the light of the facts established.

1 Inserted by decision of the Administrative Council CA/D 7/17.
2 Inserted by decision of the Administrative Council CA/D 7/17.

(4) The President shall take a reasoned decision within two months of the date of receipt of the Joint Committee's opinion, after hearing the employee concerned. The decision shall indicate the date on which it takes effect.

Article 54[1]
Retirement[2]

(1) (a)[3] An employee shall be retired
- automatically on the last day of the month during which he reaches the age of sixty-five years;
- automatically below the age of sixty-five years, if he fulfils the conditions for receiving a pension under Chapter III of the Pension Scheme Regulations or Chapter IIa of the New Pension Scheme Regulations;
- at his own request under the conditions stipulated in the Pension Scheme Regulations.

(b)[4] Notwithstanding the provisions of paragraph (a), an employee may at their own request and only if the appointing authority considers it justified in the interest of the service, work after they have reached the age of sixty-five. This applies to members of the Boards within the meaning of Article 1, paragraph 4, provided that the Administrative Council, on a proposal of the President of the Office, appoints the member concerned pursuant to the first sentence of Article 11, paragraph 3, of the Convention with effect from the day following the last day of the month during which they reach the age of sixty-five.

(2)[5] An employee shall inform the Office in writing of the concrete date of commencement of their retirement and annual leave plans at least six months prior to the requested starting date of retirement. In the case of members of the Boards, the request under paragraph 1(b) should be made at least twelve months before the member reaches the age of sixty-five.

1 Amended by decision of the Administrative Council CA/D 30/07.
2 Amended by decision of the Administrative Council CA/D 2/18.
3 Amended by decision of the Administrative Council CA/D 20/17.
4 Amended by decision of the Administrative Council CA/D 2/18.
5 Amended by decision of the Administrative Council CA/D 2/18.

TITLE IV
WORKING CONDITIONS

Chapter 1
Hours and place of work

Article 55
Working hours

(1)[1,2] Employees in active employment shall at all times be at the disposal of the Office. They shall therefore notify their permanent address and telephone number to the Office in writing.

(2) However, the normal working week shall not exceed forty hours.

(3)[3] Within the limits set out in paragraph 2, the President of the Office shall, after consulting the relevant joint committee, determine the hours of the working day and, if appropriate, the hours to be worked by certain groups of employees engaged in particular duties.

Article 55a[4]
Place of work

(1)[5] Employees in active employment shall normally perform their work on the Office's premises.

(2) The President of the Office may, after consulting the relevant joint committee, establish implementing instructions allowing employees to perform their duties at a location other than the Office's premises.

Article 56[6]
Part-time work

(1) Exceptionally, the President of the Office may, upon application setting out the reasons therefor, authorise an employee to work part-time, if they consider that this would also be in the interests of the Office.

An employee authorised to work part-time shall in each month work at least half the normal working time.

(2)[7] The authorisation shall be granted on application by the employee for a fixed, renewable period, in accordance with the provisions defined by the President of the Office.

1 Amended by decision of the Administrative Council CA/D 4/13.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 See "Guidelines on arrangements for working hours" in Part Ia 4j.
4 Inserted by decision of the Administrative Council CA/D 13/11.
5 Modified by decision of the Administrative Council CA/D 2/18.
6 See Circular No. 34.
7 Amended by decision of the Administrative Council CA/D 4/12.

Applications for renewal shall be made by the employee concerned at least one month before expiry of the period for which the authorisation was granted.

(3) If the reasons for which the authorisation was granted no longer apply, the President of the Office may withdraw the authorisation before expiry of the period for which it was granted, giving one month's notice.

The President of the Office may likewise, on application by the employee concerned, withdraw the authorisation before expiry of the period for which it was granted.

(4)[1] An employee shall be entitled, during the period for which they are authorised to work part-time, to remuneration proportionate to the working time authorised. They shall, however, continue to receive in full any dependant's allowances and education allowances to which they are entitled.

During that period they may not engage in any other gainful employment.

Contributions to the social security scheme shall be calculated on the basic salary which the employee would have received for normal full-time work. Contributions to the applicable pension scheme, and to the salary savings plan where applicable, shall be calculated in proportion to the working time.

(5) The annual leave of an employee who is authorised to work part-time shall be curtailed in proportion. Portions of days shall be disregarded.

Article 57[2]
Overtime

(1) An employee may not be required to work overtime except in cases of urgency or exceptional pressure of work; overtime worked at night, on Sundays or public holidays may be authorised only in accordance with the procedure laid down by the President of the Office. The total overtime which an employee may be asked to work shall not exceed 150 hours in any six months.

(2)[3] Overtime worked by employees in grade G7 and above shall carry no right to compensation or remuneration.

(3)[4] Overtime worked by employees in grades G6 and below shall entitle them to compensatory leave or remuneration as follows:

(a) for each hour of overtime, they shall be entitled to one hour off as compensatory leave; if the hour of overtime is worked between 10 p.m. and 7 a.m. or on Sunday or on a public holiday, the entitlement to compensatory leave shall be one hour and a half; in the granting of

1 Amended by decision of the Administrative Council CA/D 17/08.
2 See Circular No. 38.
3 Amended by decision of the Administrative Council CA/D 10/14.
4 Amended by decision of the Administrative Council CA/D 10/14.

compensatory leave, account shall be taken of the requirements of the service and the preference of the employee concerned;

(b) where the requirements of the service do not permit compensatory leave during the month following that during which the overtime was worked, the President of the Office shall authorise remuneration for uncompensated hours of overtime at the rate of 0.72% of the monthly basic salary for each hour of compensatory leave which it was not possible to grant;

(c) to qualify for compensatory leave or remuneration for one hour's overtime, the extra time worked must have been more than thirty minutes.

(4) If an employee is travelling on mission, the time taken to reach the place of assignment shall not be treated as overtime for the purposes of this Article. As regards hours worked at the place of assignment in excess of the normal number of working hours, compensatory leave or remuneration, as the case may be, may be allowed by decision of the President of the Office.

(5)[1] Notwithstanding the provisions of paragraphs 3 and 4, remuneration for overtime worked by certain groups of employees in job groups 5 and 6 in special conditions may be paid in the form of a fixed allowance, the amount and terms of which shall be laid down by the President of the Office.

Article 58
Shift work

(1) An employee who is expected to work regularly at night, on Saturdays, Sundays or public holidays when doing shift work which is required by the exigencies of the service or safety rules shall be entitled to compensation in the form of time off, or, where this cannot be granted, in the form of payment per hour of shift work performed. When such shift work is not a regular and permanent feature, it must be properly authorised by a decision of the President of the Office, valid for one month only.

(2) The compensation referred to in paragraph 1 shall be:

(a) for shift work performed on working days	
7 a.m. to 10 p.m. (outside normal hours)	1/6 hour "off", or 0.01% of annual basic salary
10 p.m. to 7 a.m.	2/3 hour "off", or 0.04% of annual basic salary
(b) for shift work performed on non-working days	2/3 hour "off", or 0.04% of annual basic salary.

(3) The normal working hours of an employee on shift work must not exceed the annual total of normal working hours.

1 Amended by decision of the Administrative Council CA/D 10/14.

Article 58a[1,2]
Employees on call

An employee required in the interests of the service to remain, outside their normal working hours, at a place of which they have notified the head of department, so as to be available for work when called, shall be entitled to a flat-rate allowance of 0.125% of their basic salary for the month in question for every hour they are on call.

Chapter 2
Leave

Article 59[3]
Annual and special leave

(1)[4,5] (a) Employees shall be entitled to annual leave of thirty working days per calendar year. For the purposes of this chapter, Saturdays shall not count as working days. Annual leave should normally be taken before the end of the current calendar year. If this is not possible because of the requirements of the service, it must be taken in the next following year.

(b) Employees aged 65 and over having accrued 35 years of reckonable service for pension entitlement and having thus reached the maximum rate of retirement pension will benefit from 12 days' additional annual leave per calendar year.

(2)[6] The President of the Office, after consulting the relevant joint committee, shall lay down:

(a) the rules for granting annual leave;
(b) the list of public holidays applicable to each place of employment.

(3)[7,8,9] In addition to annual leave, an employee may, on application, be granted special leave. In the following cases special leave in terms of working days shall be granted as shown:

(a) marriage of the employee: four days;
(b) change of residence of the employee: up to two days;
(c) serious illness of spouse: up to three days;
(d) death of spouse: four days;
(e) serious illness of a relative in the ascending line: up to two days;

1 Inserted by decision of the Administrative Council CA/D 3/87.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 See Circular No. 22.
4 Amended by decision of the Administrative Council CA/D 30/07.
5 Modified by decision of the Administrative Council CA/D 2/18.
6 Amended by decision of the Administrative Council CA/D 17/85.
7 Amended by decision of the Administrative Council CA/D 9/04.
8 Employees with dependent children within the meaning of Article 69, born after 1 October 2004, shall be entitled to special leave under the conditions of the revised Article 59(3).
9 Modified by decision of the Administrative Council CA/D 2/18.

(f) death of a relative in the ascending line: two days;
(g) birth of a child: ten days, to be taken during the 14 weeks following the birth;
(h) serious illness of a child: up to two days;
(i) hospitalisation of a child aged 12 or under or very serious illness of a child, as certified by a doctor (if the doctor consulted refuses to issue a medical certificate, the employee shall supply the Office with that doctor's name and address): up to five days;
(j) marriage of a child: two days;
(k) death of a child: four days;
(l) death of the wife during maternity leave: the number of calendar days corresponding to the remaining maternity leave; if the deceased wife is not an employee, the remaining maternity leave is determined by applying the provisions of Article 61, by analogy.

The conditions and rules relating to special leave shall be laid down by the President of the Office after consulting the relevant joint committee.

In view of particular family circumstances the President of the Office may grant leave in addition to special leave under the first sub-paragraph of this paragraph as compensation for the travelling time involved.

Article 60[1/2]
Home leave and determination of the place of home

(1)[3] Employees who (i) took up service with the Office before 1 April 2018 and (ii) are nationals of a Contracting State other than that in which they are employed shall receive eight working days' additional leave every two years to return home. Travel expenses for such leave shall be reimbursed to the employee concerned under the conditions laid down in Article 77.

(2)[4] For the purposes of these Regulations, the home of an employee shall be the place with which they have the closest connection outside the country in which they are employed, and which is on the territory of a Contracting State. This shall be determined when the employee takes up their duties, taking into account the place of residence of the employee's family, where the employee was brought up and any place where they possess property.

Any review of this decision may take place only after a special decision by the President of the Office upon a reasoned request by the employee.

1 Revised with effect from 1 April 2013 by decision of the Administrative Council of CA/D 3/13. Employees who were granted home leave outside the territory of a Contracting State in line with the provisions in force prior to the entry into force of this decision shall continue to benefit from their entitlement to home leave in terms of both days off and travel expenses. The amendments to Article 60 ServRegs adopted by this decision shall however apply when reviewing the place of home leave upon request of the employee concerned.
See also Circular No. 22.
2 Modified by decision of the Administrative Council CA/D 3/19.
3 Amended by decision of the Administrative Council CA/D 2/18.
4 Modified by decision of the Administrative Council CA/D 3/19.

Article 61[1]
Maternity leave

(1) A pregnant woman shall be entitled, on production of a medical certificate, to at least 20 weeks' paid leave. The leave shall start not earlier than six weeks before the expected date of confinement shown on the certificate and end 14 weeks after the date of confinement. In the case of multiple or premature birth, birth of a disabled child[2] or where the pregnant woman has already given birth to two or more viable children or where the household already has at least two children in its care, the leave duration shall be 24 weeks. Premature birth for the purposes of this provision shall be a birth taking place more than six weeks before the expected date of confinement.

(2) Should a fixed-term appointment expire during the period of maternity leave provided for in these Service Regulations, it shall be automatically extended for the fixed duration necessary to bring the maternity leave to a maximum of ten weeks after the birth of the child.

Article 61a[3/4]
Adoption leave

(1) An employee who has lodged an application for the adoption of a child and started the adoption procedure shall be entitled to paid leave if, on the date the child is recognised as dependent within the meaning of Article 69(3)b), the child is under 18 years of age and neither resident with the employee, their spouse or the other adopting parent, nor already mainly and continuously supported by the employee, their spouse or the other adopting parent.

(2) The leave shall amount to 20 weeks, rising to 24 weeks in the case of the adoption of a disabled child[5]. Each adopted child shall confer entitlement to only one period of leave, which may be shared between the adoptive parents if both are employees. The leave must be taken without interruption and within 12 months from the date of adoption. It shall be granted only if the employee's spouse or the other adoptive parent engages in a gainful activity at least half-time. If the spouse or the other adoptive parent benefits from comparable leave, a corresponding number of days shall be deducted from the employee's entitlement.

The President of the Office may, in case of necessity, grant additional paid leave in cases where the national legislation of the country in which the adoption procedure takes place and which is not the country of employment of the adopting employee requires a stay of one or both adoptive parents.

1 Amended by decision of the Administrative Council CA/D 2/18.
2 Amended by decision of the Administrative Council CA/D 20/17.
3 Amended by decision of the Administrative Council CA/D 9/04.
4 Employees who adopt a child after 1 December 2004 shall be entitled to adoption leave under the conditions of the revised Article 61a.
5 Amended by decision of the Administrative Council CA/D 20/17.

Paid leave of 10 days shall be granted if the employee does not benefit from the full adoption leave of 20 or 24 weeks; this additional special leave shall be granted only once for each adopted child.

(3)[1] Should a fixed-term appointment expire during the period of adoption leave provided for in these Service Regulations, it shall be automatically extended for the fixed duration necessary to bring the adoption leave to a maximum of ten weeks after the date the child is recognised as dependent by the Office.

Article 61b[2]
End of leave entitlement

Unless expressly provided otherwise, leave entitlement shall lapse upon expiry of a fixed-term appointment and be forfeited forthwith.

Chapter 3[3/4]
Absences for health reasons

Article 62[5]
General principles

(1) The present provisions on absences for health reasons offer a framework conducive to health recovery and return to work. The system relies on the responsible use and active contribution of the employee.

(2) The system covers three phases:

- sick leave;
- extended sick leave;
- incapacity.

It allows flexible working arrangements and a partial return to work at all phases. Regular medical appointments will take place during the three phases depending on the employee's health situation.

(3) The President of the Office may lay down further terms and conditions necessary for the implementation of this Chapter.

Article 62a[6]
Sick leave

(1) An employee who is unable for health reasons to perform all or part of their duties shall be entitled to sick leave subject to the conditions laid down in the present Article.

1 Inserted by decision of the Administrative Council CA/D 2/18.
2 Inserted by decision of the Administrative Council CA/D 2/18.
3 Inserted by decision of the Administrative Council CA/D 2/15. See also Article 9 CA/D 20/17.
4 See also the transitional measures in Articles 71 to 74 in CA/D 2/15. See also Article 9 CA/D 20/17.
5 Amended by decision of the Administrative Council CA/D 20/22.
6 Amended by decision of the Administrative Council CA/D 20/22.

(2) The employee concerned shall notify the Office of their inability to perform their duties as soon as possible on the first day of absence, and at the same time state their present address and telephone number. They shall provide evidence of their inability to perform their duties on the fourth day of absence at the latest if they are absent for more than three working days and on the first day of absence if they have already taken uncertified sick leave for three working days in a given calendar year.

(3) If, during annual or home leave, an employee's state of health would justify sick leave, the corresponding period shall, subject to production of evidence, be deemed to be sick leave and shall not be deducted from their annual or home leave.

(4) If an employee's state of health so requires or if a member of their household is suffering from a contagious disease, they may be required to take compulsory sick leave after examination by a medical practitioner under Title VI.

(5) If an employee wishes to spend sick leave elsewhere than at their place of residence within the meaning of these Service Regulations, they shall obtain prior permission of the President of the Office.

(6) The President of the Office may verify by means of medical examinations whether the employee's state of health justifies sick leave. These medical examinations may be conducted at the present address of the employee. The terms and conditions for performing such examinations, which may also be conducted by external service providers, shall be laid down by the President of the Office.

(7) Sick leave shall be

(a) granted for an initial period of up to a maximum duration of 125 working days, either in one unbroken period or in several periods within any rolling period of 18 consecutive months;

(b) extended up to a total of 250 working days within any rolling period of 36 consecutive months if the employee is still partially or totally unable to perform their duties.

Regardless of any working time arrangement or applicable salary deduction, for the purpose of computing sick leave accumulation, any absence on a working day shall be counted as a full day of sick leave.

(8) An employee on sick leave may be authorised to work by using partial sick leave by decision of the President of the Office upon medical opinion assessing the appropriate duration and extent of a reduction in working hours.

(9) During a period of full or partial sick leave an employee shall retain the right to

(a) the remuneration they would be entitled to if their health enabled them to perform their duties, subject to a 10% deduction of the basic salary

and of the allowances payable under Articles 68 and 72 during the period mentioned in paragraph 7(b);

(b) annual and home leave, it being provided that

- leave taken during such periods shall be deducted in full days from their leave entitlement, irrespective of the percentage reduction in their working time,
- taking fractions of days' leave is not allowed;

(c) full benefits under the social security and pension schemes, including, where applicable, participation in the salary savings plan.

The employee's contributions to the social security scheme, to the pension scheme and, where applicable, to the salary savings plan shall be calculated on their full basic salary. The above applies subject to Article 56, paragraph 4.

(10) Where an absence results from a medical condition which gives rise to a claim against a third party by an employee, the award of the benefits provided for in this Article shall in principle be made subject to the beneficiary's assigning to the Office their claims against such third party, up to the amount of such benefits.

However, the Office may waive its right to take action pursuant to such subrogation against the third party concerned where special circumstances justify such a waiver.

(11) At the expiry of the applicable maximum period of sick leave, the rights and obligations of the employee who is still partially or totally unable to perform their duties for health reasons shall be governed by the provisions of Article 62b.

(12) Entitlement to sick leave shall lapse upon expiry of a fixed-term appointment.".

Article 62b[1]
Incapacity during service

(1) If an employee has reached the applicable maximum period of sick leave set forth in Article 62a, paragraph 7(b), the President of the Office shall declare them unable to perform their duties for reasons of incapacity upon medical opinion proving that the necessary conditions are fulfilled: being partially or totally unable to perform their duties or similar other duties which might reasonably be assigned to them, i.e. which correspond to their situation, their knowledge and their capabilities.

In such case, they shall be partially or totally discharged from performing their duties by decision of the President of the Office.

The proportion and period of time of such discharge from duties shall follow the medical opinion. In case of partial incapacity, any discharge from duties

1 Inserted by decision of the Administrative Council CA/D 20/22.

shall not exceed 80% of the normal working time. The minimum degree of incapacity for a total discharge from duties shall be 70%.

(2) A medical opinion assessing incapacity shall be based on a medical examination of the employee concerned. The medical practitioner's conclusions shall indicate:

(a) the degree of incapacity, i.e. the extent to which the employee is unfit to work;
(b) the identification of any specific restrictions in the exercise of the employee's duties or similar other duties assigned to them;
(c) the proportion of any possible working time;
(d) the foreseen duration of incapacity;
(e) the date on which a new examination should take place;
(f) any suggestions as to specific measures which could be taken to improve the employee's state of health.

(3) During a period of incapacity pursuant to this Article, the employee shall be entitled to

(a) a proportion of their basic salary and of the allowances payable under Articles 68 and 72 equal to the time worked;
(b) 70% of the basic salary and of the allowances payable under Articles 68 and 72 at their grade and step for the time they are discharged from duties for reasons of incapacity, whereby the combination of (a) and (b) shall not result in an amount lower than 120% of basic salary at grade G1, step 4, unless this minimum would result in a basic salary higher than that payable if the employee were not prevented from performing their duties;
(c) their other allowances in full;
(d) annual leave in proportion to the time actually worked;
(e) home leave, if applicable;
(f) full benefits under the social security scheme provided for under Chapter 2 of Title V.

Contributions to the social security scheme shall be calculated on the basic salary which the employee would have received for normal full-time work.

(4) Contributions to the pension scheme and where applicable to the salary savings plan shall be calculated in proportion to the actual salary drawn, and the employee shall accrue correspondingly reduced benefits.

At the employee's request, contributions to the pension scheme and where applicable to the salary savings plan shall be calculated on the basic salary which they would have received for normal full-time work, in which case they shall accrue full benefits.

(5) A part-time arrangement approved in accordance with Article 56 before a period of incapacity shall remain unaffected. In such case:

(a) the proportion of any possible working time during incapacity shall be determined by reference to the normal, full-time working hours;

(b) incapacity benefits under paragraph 3 shall be payable only for the fraction of time defined as working time under the pre-existing part-time working arrangement and not worked for reasons of incapacity.

(6) If during a period of partial incapacity the employee's state of health so requires and subject to the provision of evidence, they may temporarily be discharged from the entirety of their duties. Their rights and obligations for such absence shall be determined by this Article. In addition, Article 62a, paragraph 6, shall apply.

(7) An employee's state of health shall be periodically reviewed in order to determine whether or not the conditions for incapacity laid down in paragraph 1 are still met and, if so, whether the proportion of incapacity and its duration should be adjusted.

(8) The incapacity of an employee pursuant to this Article shall end

(a) by decision of the President of the Office upon medical opinion concluding that the employee no longer meets the conditions for incapacity laid down in paragraph 1. In such a case, they shall resume their duties or be charged with similar other duties;
(b) on termination of service according to Article 50, unless the employee becomes eligible for the incapacity cover provided for under Article 62c.

(9) During a transitional period after termination of incapacity under paragraph 8(a), sick leave may initially be granted for a maximum of 20 days. For any further absences for health reasons, the employee shall receive incapacity benefits under this Article.

Such a transitional period shall end once the employee has accumulated a maximum of 20 days of absences for health reasons within any period of 18 months.

(10) During a period of incapacity, the provisions in Article 62a, paragraphs 2 to 5, shall apply.

Article 62c[1]
Incapacity for fixed-term employees upon termination of service

(1) If a fixed-term employee is on authorised absence for medical reasons when their service terminates, a medical opinion shall be sought to determine whether they fulfil the conditions for total incapacity: being totally unable to perform duties which correspond to their situation, their knowledge and their capabilities. In such a case, the former fixed-term employee shall be deemed on incapacity by decision of the President of the Office.

(2) The minimum degree of incapacity required to qualify for total incapacity shall be 70%.

1 Amended by decision of the Administrative CouncilCA/D 20/22.

(3) A medical opinion assessing total incapacity shall be based on a medical examination of the employee concerned. The medical practitioner's conclusions shall indicate:

(a) the degree of incapacity, i.e. the extent to which the former fixed-term employee is unfit to work;
(b) the foreseen duration of incapacity;
(c) the date on which a new examination should take place;
(d) any suggestions as to specific measures which could be taken to improve their state of health.

(4) During a period of incapacity, a former fixed-term employee shall be entitled to

(a) 70% of the basic salary paid at the last step they had reached in the last grade held by them. The amount may not, however, exceed the basic salary for grade G1, step 4;
(b) full benefits under the social security scheme provided for under Chapter 2 of Title V.

(5) The former fixed-term employee shall continue to pay one-third of the total contributions to the social security scheme only, which shall be calculated on the basic salary which they would have received for normal full-time work.

(6) A former fixed-term employee's state of health shall be periodically reviewed in order to determine whether or not the conditions for incapacity laid down in paragraph 1 are still met and, if so, whether the proportion of incapacity and its duration should be adjusted.

(7) The incapacity of a former fixed-term employee shall end

(a) by decision of the President of the Office upon medical opinion concluding that the former fixed-term employee no longer meets the conditions for total incapacity laid down in paragraph 1; or
(b) on expiry of each 12-month period from termination of service, unless the President of the Office decides otherwise upon, inter alia, medical opinion concluding that the former fixed-term employee continues to meet the conditions for total incapacity laid down in paragraph 1, and after taking into consideration evidence of sources of income provided by the former fixed-term employee; or
(c) when the former employee starts drawing a pension, or
(d) in any event at the age of 65.

(8) The total contribution required to meet payments under this Article, calculated by reference to the basic salary, shall be set by the President of the Office, on the basis of an actuarial study. One-third of such contribution shall be charged to the fixed-term employee.

Chapter 4[1]
Unauthorised absence and non-fulfilment of duties[2]

Article 63[3]
Unauthorised absence

(1)[4] Except in case of inability to perform their duties for health reasons, an employee may not be absent without prior permission from their line manager. Any unauthorised absence which is duly established shall be deducted from the annual leave of the employee concerned. If the annual leave has been used up, the unauthorised absence shall lead to a deduction of the employee's remuneration for the equivalent period in accordance with Article 65(1)(b).

(2)[5] In particular, an employee shall be considered to be on unauthorised absence if they fail, without legitimate reason, to

(a) provide evidence pursuant to Article 62a, paragraph 2;
(b) undergo a medical examination ordered pursuant to Article 62a, paragraphs 4 and 6;
(c) obtain permission prior to spending their sick leave elsewhere than at their place of residence pursuant to Article 62a, paragraph 5;
(d) return to work at the end of a period of sick leave or incapacity or where a medical practitioner advising the President of the Office concludes that sick leave is not or no longer justified under Article 62a, paragraphs 6 or 7(b). If these medical conclusions are contested and confirmed following the arbitration procedure laid down in Article 91, the employee shall be considered on unauthorised absence as from the date when the contested medical conclusions were first communicated to them.

(3) Notwithstanding paragraph 1, and taking due account of the circumstances, any unauthorised absence established under paragraph 2(d) following an arbitration procedure may lead to a deduction from the basic salary of the employee concerned for the period prior to the outcome of the arbitration procedure.

(4) Application of paragraphs 1, 2 and 3 shall be without prejudice to any disciplinary measures that may apply.

1 Inserted by decision of the Administrative Council CA/D 2/15. See also Article 9 CA/D 20/17.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 2/15. See also Article 9 CA/D 20/17.
4 Amended by decision of the Administrative Council CA/D 11/22.
5 Amended by decision of the Administrative Council CA/D 11/22.

Article 63a[1]
Failure or refusal to perform assigned duties

(1) Where an employee fails or refuses to fulfil their duties under the Convention, its Implementing Regulations, or these Service Regulations, the appointing authority may request in writing that the employee carry out these duties.

(2) The appointing authority may withhold the salary of an employee if the employee fails or refuses to comply with the written request of the appointing authority under paragraph 1, or with an order confirmed in writing by the line manager in accordance with Article 20, paragraph 2. The salary withheld shall be the twentieth part of the employee's basic salary for every day of non-compliance since the date of the written request or order, until such time as the employee fully complies with it.

(3) A decision of the appointing authority under paragraph 2 taken against an employee shall be recorded in their personnel file.

1 Amended by decision of the Administrative Council CA/D 11/22.

TITLE V[1]
EMOLUMENTS AND SOCIAL SECURITY

Chapter 1
Remuneration and reimbursement of expenses

Section 1
General provisions

Article 64
Determination of remuneration

(1)[2] Save as otherwise expressly provided in these Service Regulations, an employee who is duly appointed shall be entitled to the remuneration appropriate to their grade and step. They may not waive this entitlement to remuneration.

(2)[3] Remuneration shall comprise basic salary and, where appropriate, any allowances. Basic salary shall be the amount obtained after deduction of the internal tax referred to in paragraph 4 from the gross salary indicated in the scales referred to in Article 66, paragraph 1.

(3) An employee's remuneration shall be paid in the currency of the country and at the place in which they mainly perform their duties; it shall be expressed in that currency.

(4)[4] Salary figures shown in Annex III shall be gross, before deduction of the internal tax under the Regulation determining the amount and the levy of that tax, adopted by the Administrative Council pursuant to Article 16 of the Protocol on Privileges and Immunities of the Organisation, and before deduction of staff contributions to the social security scheme, to the applicable pension scheme and, where applicable, to the salary savings plan.

The allowance figures shown in Annexes III to VI shall be net.

(5) In the event of an employee's death, the surviving spouse or dependent children shall receive the deceased's full remuneration until the end of the third month after the month in which the death occurred.

(6)[5] The remuneration of the employees shall be subject to periodic review. It shall be adjusted by the Administrative Council in accordance with a procedure adopted by that body, account being taken, so far as applicable

1 Amended by decision of the Administrative Council CA/D 19/88; see also "Pension Scheme Regulations" (Part Ia 9).
2 Amended by decision of the Administrative Council CA/D 10/14.
3 Amended by decision of the Administrative Council CA/D 17/08.
4 Amended by decision of the Administrative Council CA/D 17/08.
5 See "Implementing rule to Article 64" (CA/D 31/07).

to that procedure, of recommendations by the Co-ordinating Committee of Government Budget Experts.

Article 65[1/2]
Payment of remuneration

(1)[3] (a) Payment of remuneration to employees shall be made at the end of each month for which it is due.

(b) Where remuneration is not payable in respect of a complete month, the monthly amount shall be divided into thirtieths and

- where the actual number of days for which pay is due is fifteen or less, the number of thirtieths payable shall equal the actual number of days for which pay is due;
- where the actual number of days for which pay is due is more than fifteen the number of thirtieths payable shall equal the difference between the actual number of days for which pay is not due and thirty.

(c) Where entitlement to any of the allowances provided for in Article 67 commences at or after the date of entering the service, the employee shall receive such allowance as from the first day of the month in which such entitlement commences, provided that any request for the allowance is submitted within six months of the date on which entitlement commences, unless otherwise provided in these Regulations. If an allowance is requested after expiry of the above six-month period, it shall be granted retroactively but only for the six months preceding the month in which the request was submitted, except in a duly substantiated case of force majeure. On cessation of such entitlement the employee shall receive the sum due up to the last day of the month in which entitlement ceases.

(d) All employees in receipt of an allowance shall inform the President of the Office immediately in writing of any change which may affect their entitlement to that allowance.

(e) Without prejudice to any other time limitations for retroactive payments, except in duly substantiated cases of force majeure the Office will not make such payments for periods longer than three years as from the date on which they were requested.

(2) (a) An employee may regularly transfer, through the Office, part of their remuneration, up to a maximum of 20% of their basic salary, to the credit of an account opened in their name in a banking establishment either in the country of their home as defined in Article 60, paragraph 2, or in the country in which a dependant for whom the employee receives an allowance under these Regulations has their residence.

1 See Circular No. 132.
2 See also "New time limits" in part 1b.
3 Amended by decision of the Administrative Council CA/D 17/21.

(b) Regular transfers in excess of the maximum stated above may be effected only where they are intended to cover expenditure arising out of commitments proved to have been regularly entered into by the employee and which they have to meet in one of the countries stipulated in sub-paragraph (a).

(c) Apart from these regular transfers, an employee shall, save in very exceptional circumstances and for good reasons supported by evidence, not be authorised to transfer through the Office sums which they may desire to have available in the currencies of one of the countries mentioned in sub-paragraph a).

(d)[1] Subject to the employee's decision, transfers provided for in this paragraph shall be made either in the currency of the country to which the transfer is made at the rate of exchange in force on the date of transfer or in euros.

(3)[2] Under the conditions laid down in the implementing rule hereto, employees shall participate in a salary savings plan. Where applicable, the portion of remuneration owed as a result of that participation shall in principle be paid on termination of service.

Section 2
Basic salary

Article 66[3]
Salary scales

(1) The gross salary scales for each grade and step shall be as set out in Annex III.

(2) An employee shall receive the basic salary appropriate to their grade and step.

Section 3
Allowances

Article 67[4]
General provisions

(1) Under the conditions laid down in this Section, an employee shall be entitled to:

(a) family allowances:

1 Modified by decision of the Administrative Council CA/D 3/19.
2 Inserted by decision of the Administrative Council CA/D 13/08.
3 Amended by decision of the Administrative Council CA/D 10/14.
4 Amended by decision of the Administrative Council CA/D 4/21.

- household allowance,
- dependant's allowance,
- young child allowance,
- education allowance;

(b) expatriation allowance;
(c) installation allowance;
(d) rent allowance;
(e) language allowance.

(2) An employee in receipt of household allowance or dependant's allowance shall declare allowances of like nature paid from other sources; these allowances shall be deducted from those paid under these Service Regulations.

(3) In cases where both spouses employed by the Office are entitled to family allowances, these shall be payable only to the person whose basic salary is the higher.

Article 68
Household allowance

(1) The household allowance shall be 6% of the basic salary of the employee; the monthly amount thereof shall not however be less than the corresponding amount payable to an employee in Grade G4, step 4.[1]

(2) The household allowance shall be granted to:

(a) a married employee;
(b) an employee who is widowed, divorced, legally separated or unmarried and has dependants within the meaning of Article 69;
(c) by special reasoned decision of the President of the Office based on supporting documents, an employee who, while not fulfilling the conditions laid down in (a) and (b), nevertheless actually assumes family responsibilities.

(3) In the case of a married employee who has no dependants and whose spouse is gainfully employed, the allowance paid, which shall be a maximum of 6 % of the basic salary, shall be equal to the difference between the basic salary carried by Grade G4, step 4[2], increased by the amount of the allowance to which the employee is theoretically entitled, and the amount of the earned income of the spouse. If the latter amount is equal to or more than the former, no allowance shall be paid to the employee.

Article 69
Dependants' allowance - Children

(1) A dependants' allowance shall be payable, under the conditions laid down in this Article, to an employee who has:

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Amended by decision of the Administrative Council CA/D 10/14.

I. one or more dependent children;
II. one or more dependent disabled children.[1]

(2) Not more than one dependants' allowance shall be paid in respect of any dependent child within the meaning of this Article.

I. Dependent children

(3)[2] For the purposes of these Regulations a dependent child shall be:

(a) the legitimate, natural or adopted child of an employee, or of their spouse, who is mainly and continuously supported by the employee or their spouse;
(b) the child for whom an application for adoption has been lodged and the adoption procedure started;
(c) any other child who is normally resident with and mainly and continuously supported by the employee or their spouse.

(4)[3] The allowance shall be granted:

(a) for all children under eighteen years of age;
(b) on application by the employee, with supporting evidence, for children who have not reached twenty-six years of age and are receiving educational or vocational training.

(5) Payment of the allowance in respect of a child prevented by serious illness or invalidity from earning a livelihood shall continue throughout the period of that illness or invalidity, irrespective of age.

(6) The amount of the allowance shall be as set out in Annex III.

II. Dependent disabled children[4]

(7)[5] An employee with a dependent child medically certified as suffering from a disability necessitating either special care, supervision or special education or training, not provided free of charge, may claim a dependent disabled children's allowance and reimbursement of educational or training expenses for said child under the conditions laid down in the following paragraphs, whatever the age of the child.

(8)[1] The decision to pay this allowance and this reimbursement shall be taken by the President of the Office following a medical opinion on the nature and degree of the disability. This decision shall determine the period for which the employee shall be granted these benefits; it shall be subject to periodical review.

1 Amended by decision of the Administrative Council CA/D 20/17.
2 See Circular No. 82.
3 Amended by decision of the Administrative Council CA/D 28/09.
4 Amended by decision of the Administrative Council CA/D 20/17.
5 Amended by decision of the Administrative Council CA/D 20/17.

(9)[1] The criterion for assessing entitlement to these benefits shall be the serious and continuing impairment of the physical or mental abilities.

Children may be deemed disabled when they suffer from:

(a) serious or chronic affection of the central or peripheral nervous system, however caused, such as encephalopathies, myelopathies or peripheral paralysis;
(b) serious affection of the locomotor system;
(c) serious affection of one or more sensory systems;
(d) chronic and disabling mental illness.

The above list shall not be deemed to be exhaustive and is given by way of indication only. It shall not be taken as an absolute basis for assessing the degree of disability.

(10)[2] A claim for reimbursement shall be made solely in relation to expenses incurred in order to provide the disabled child with education or training specially adapted to their needs and designed to obtain the highest possible level of functional capability and which are not of the same kind as those taken into account for the purposes of the education allowance.

The President of the Office shall satisfy themself as to whether the expenses for which reimbursement is claimed are reasonable.

(11)[3] The amount of the dependent disabled children's allowance shall be as set out in Annex III; it shall not be paid concurrently with the dependent children's allowance.

(12) Reimbursement of educational or training expenses above shall be at the rate of 90 per cent of the expenses defined in paragraph 10.

(13) The amount of expenses incurred as defined in paragraph 10 shall be calculated after deduction of any payment received from any other source for the same purpose.

Article 70
Dependants' allowance - Other persons

An allowance for dependants as set out in Annex III may be granted by the President of the Office on the basis of supporting evidence where an employee or their spouse mainly and continuously supports a parent or other relative, by blood or marriage, by virtue of a legal or judicial obligation.

1 Amended by decision of the Administrative Council CA/D 20/17.
2 Amended by decision of the Administrative Council CA/D 20/17.
3 Amended by decision of the Administrative Council CA/D 20/17.

Article 70a[1]
Young child allowance

(1) Employees are entitled to the young child allowance for each dependent child within the meaning of Article 69.

(2) Entitlement to the allowance shall commence in the month of birth of the dependent child. It shall terminate in the month preceding the child's fourth birthday. Entitlement to the allowance shall continue in full during periods of parental and family leave or part-time work.

(3) The amount of the young child allowance shall be doubled whenever

(a) the child concerned regularly attends a childcare facility recognised by the Office, and
(b) the costs invoiced by that childcare facility amount to at least twice the amount of the young child allowance.

(4) The amount of the allowance is set out in Annex IV.

Article 71[2]
Education allowance

I. Conditions of award

(1) Under the terms set out below, employees may claim the education allowance in respect of each dependent child, within the meaning of Article 69, regularly attending an educational establishment on a full-time basis.

(2) Entitlement to the allowance shall commence on the first day of the month in which the dependent child turns four. It shall terminate when the child ceases full-time studies, and not later than the end of the month in which the entitlement to the dependent child allowance in respect of that child will cease to be recognised.

(3) Where the education is discontinued before the end of an academic year, the amounts and ceilings of the allowance are reduced on a pro rata basis.

(4) The costs set out in paragraphs 5 and 7 may only be claimed once for any given period.

II. Pre-school, primary education and secondary education

(5) Direct education costs, namely enrolment, tuition and capital fees, incurred for pre-school, primary education or secondary education that exceed

1 Amended with effect as from 1 September 2021 by decision of the Administrative Council CA/D 4/21. For employees and pensioners who joined the Office up until 30 June 2021, see transitional measures under point V. of CA/D 4/21 or in Part 1a in the Codex.

2 Amended with effect as from the start of the academic year 2021/2022 by decision of the Administrative Council CA/D 4/21. For employees and pensioners who joined the Office up until 30 June 2021, see transitional measures under point V. of CA/D 4/21 or in Part 1a in the Codex.

EUR 500 per academic year will be fully reimbursed up to the annual ceilings set out in Annex IV.

Employees whose child attends a European school located at their place of employment and subsidised by the Organisation are not entitled to this reimbursement.

(6) Employees entitled to the education allowance for a child in pre-school, primary education or secondary education will receive a monthly lump sum for indirect education costs, the amount of which is set out in Annex IV.

III. Post-secondary education

(7) Direct education costs, namely enrolment and tuition fees, incurred for postsecondary education that exceed EUR 500 per academic year will be reimbursed at the rate of 70%, up to the annual ceiling set out in Annex IV.

(8) Employees entitled to the education allowance for a child in post-secondary education will receive a monthly lump sum for indirect education costs. The amount of the lump sum depends on whether the child is living at home, and is set out in Annex IV.

Article 72[1]
Expatriation allowance

(1)[2] An expatriation allowance shall be payable to employees who, at the time they take up their duties or are transferred:

(a) hold the nationality of a Contracting State other than that in which they will be serving, and
(b) were not permanently resident in the latter state for at least three years, no account being taken of previous service in the administration of the state conferring the said nationality or with international organisations.

To remain entitled to an expatriation allowance, employees must continue to meet the condition specified in (a) above.

(2) An expatriation allowance shall also be payable to employees not referred to in paragraph 1 a) above and who at the time of taking up their duties have been permanently resident for at least ten years in a country other than the country in which they will be serving, no account being taken of previous service in the administration of the latter country or with international organisations.

1 Revised with effect from 1 July 1990 by decision of the Administrative Council CA/D 6/90.
2 Amended by decision of the Administrative Council CA/D 20/17.
"The amendments to Article 72 ServRegs shall apply to employees recruited as from 1 January 2018 and to employees recruited before 31 December 2017 who, after the decision's entry into force, lose the nationality that entitled them to the grant of an expatriation allowance on account of acquiring, as their sole nationality, that of the Contracting State in which they are serving."

(3) The rates of the expatriation allowance shall be 20% of basic salary for employees entitled to the household allowance and 16% of basic salary for other employees.

(4) In no circumstances shall the amount resulting from application of the rates provided for in paragraph 3 above be less than the amount of the expatriation allowance due to an employee in Grade G4, step 4[1].

(5)[2] Where spouses are both employees of the Office serving at the same place of employment and each is paid the expatriation allowance under the above provisions they shall each receive the allowance at the rate of 16% of basic salary, subject to the provisions of paragraph 4 above, irrespective of whether either of them is in receipt of the household allowance.

Article 73
Installation allowance

(1) An installation allowance shall be payable to employees:

(a) whose place of recruitment was more than 100 kilometres from their place of employment at the time when they accepted employment with the Office, or
(b) on transfer from one place of employment to another place of employment, these places of employment being situated at least 400 kilometres apart, provided such transfer is of indefinite duration exceeding two months.

This installation allowance shall be equal to one month's basic salary; it shall be supplemented by an additional payment of half a month's basic salary for employees entitled to a household allowance and having not more than one dependent child, and of one month's basic salary for employees entitled to a household allowance and having at least two dependent children.

(2)[3] Subject to the provisions of paragraph 1 above, the installation allowance shall be payable from the employee's date of entry into service with the Office or of their transfer from one place of employment to another; however, the additional payments referred to in paragraph 1 shall be payable only where the spouse and dependent children have taken up residence at the place of employment and, if applicable, the employee concerned has satisfactorily completed the probationary period.

(3)[4] Notwithstanding paragraph 2 above, a new recruit on probation may be granted an advance of the additional installation allowance in respect of the spouse and dependent children provided that they have taken up residence at the probationer's place of employment, and the probationer has completed six months' service without an adverse report having been made under Article 13,

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Amended by decision of the Administrative Council CA/D 4/21.
3 Amended by decision of the Administrative Council CA/D 2/18.
4 Amended by decision of the Administrative Council CA/D 10/14.

paragraph 4. A probationer whose appointment is not confirmed shall be required to reimburse this advance.

(4) Employees shall be required to reimburse one half of the installation allowance and any additional payments, if they leave their appointments of their own accord before two years have expired.

(5) The President of the Office may authorise an exception to the provisions governing reimbursement where strict application might cause special hardship.

Article 74
Rent allowance

(1)[1/2] A rent allowance shall be payable to an employee in job group 4, up to Grade G11 step 1, or in job groups 5 and 6 provided that:

(a) neither they nor their spouse owns, in the area of the place of his employment, accommodation commensurate with their grade and family circumstances;
(b) they are the tenant or sub-tenant of furnished or unfurnished premises commensurate with their grade and family circumstances;
(c) the rent paid, excluding all charges, exceeds the proportion specified in paragraph 4 below of their emoluments as defined in the first sub-paragraph of paragraph 6.

(2) The rent allowance may not be granted to those married employees who do not receive the household allowance because of the provisions of Article 68, paragraph 3.

(3)[3] Employees shall supply the President of the Office on request with all information necessary to ensure that the conditions referred to in paragraph 1 are satisfied and to determine the amount of allowance to which they are entitled.

(4)[4/5] The amount of the allowance shall be a proportion of the difference between the rent as defined in paragraph 6, sub-paragraph 2, and the following nominal sums:

- 15% of the emoluments of employees in job group 6 up to and including Grade G8 step 4;
- 20% of the emoluments of employees in job group 6, from Grade G8 step 5, and of employees in job group 5;
- 22% of the emoluments of employees in job group 4, from Grade G7 to G11 step 1.

1 Amended by decision of the Administrative Council CA/D 19/88.
2 Amended by decision of the Administrative Council CA/D 10/14.
3 Modified by decision of the Administrative Council CA/D 2/18.
4 Amended by decision of the Administrative Council CA/D 19/88.
5 Amended by decision of the Administrative Council CA/D 10/14.

(5)[1/2] The said proportion shall be 50% for unmarried employees and employees entitled to the household allowance with no dependants, 55% for employees with one dependant and 60% for those with two or more dependants, whereby the amount of the allowance may in no case exceed:

- 10% of the emoluments of the person concerned in the case of employees in job group 6, up to and including Grade G8 step 4;
- 5% of the emoluments of the person concerned in the case of employees in job group 6, from Grade G8 step 5, of employees in job group 5 and of employees in job group 4 up to Grade G11 step 1.

(6) For the purpose of this Article, emoluments shall be deemed to mean basic salary with the addition of any expatriation, household and language allowances, and after deduction of social security and pension contributions from the total amount.

Rent shall be deemed to be the actual rent paid by the occupant of the accommodation, exclusive of all charges such as heating, lighting, water, gas, electricity, service, maintenance, etc. Where such charges are included in the rent paid, an appropriate amount shall be deducted from the gross rent.

(7) Any employee who is the owner, in the area of the place of employment, of accommodation which they do not occupy, shall only receive the rent allowance after deduction of the rent which they receive or should normally receive at the market rate for the accommodation which they own.

(8) All employees in receipt of a rent allowance shall inform the President of the Office in writing immediately of any change which affects their eligibility for the allowance.

Article 75[3]
Language allowance

(1)[4/5] A language allowance may be granted by the President of the Office, whenever they deem this to be in the interests of the Organisation, to employees in job group 6, from Grade G1 to G6 step 3, who are required in the course of their duties to use two or three of the official languages of the Office which are not their mother tongue and who have proved that they have a knowledge of those languages.

(2) For the purposes of this Article, mother tongue shall mean the language considered as such under the national legislation governing each employee.

1 Amended by decision of the Administrative Council CA/D 19/88.
2 Amended by decision of the Administrative Council CA/D 10/14.
3 See Circular No. 83.
4 Amended by decision of the Administrative Council CA/D 10/80.
5 in job groups 4 to 6, from grade G8 step 5 to G11 step 1

(3)[1] For each second and third language other than the mother tongue, the employee concerned shall receive an allowance equivalent to the amount set out in Annex III.

Section 4
Expenses

Article 76[2]
Reimbursement and advances

(1) An employee shall be entitled, within the terms of this Section, to reimbursement of expenses incurred by them:

(a) in the course of or in connection with the performance of their duties;
(b) on taking up appointment, transfer, or leaving the service; and
(c) on taking home leave.

(2) Advances may be granted to an employee:

(a) to provide for expenses incurred in the course of or in connection with the performance of their duties, or on transfer;
(b) to allow a newly recruited employee to enter the service and to settle at the place where they are to be employed and to assist them in their first essential expenses.

(3)[3] Unless otherwise provided in these Regulations, requests for reimbursement under paragraph 1 must be submitted within six months of the date on which the expenditure was incurred. Requests submitted after the deadline provided in this paragraph or otherwise in these Regulations are reimbursable only in a duly substantiated case of force majeure.

Article 77[4]
General provisions for travel

(1) An employee holding a travel order requiring them to work at or travel to a place other than that at which they are employed shall be entitled, under the conditions laid down by the President of the Office, to:

(a) a daily subsistence allowance, in accordance with the provisions of Article 78
(b) reimbursement of transportation expenses, in accordance with the provisions of Article 79

1 Amended by decision of the Administrative Council CA/D 10/14.
2 See also "New time limits" in part 1b.
3 Amended by decision of the Administrative Council CA/D 2/07.
This decision shall enter into force on 8 March 2007. It shall apply with effect from 1 October 2006. Where entitlement to an allowance or reimbursement arose prior to that date, the six-month period provided for in Articles 65(1)(c) and 76(3) ServRegs as amended shall commence on 1 October 2006.
4 Amended by decision of the Administrative Council CA/D 8/09.

(2)[1] An employee shall be entitled to the reimbursement of travel expenses actually incurred in accordance with the provisions of Article 80 and to lump sum compensation for the removal of household and personal effects in accordance with the provisions of Article 81:

(a) when taking up appointment;
(b) on transfer from one place of employment to another place of employment;
(c) on leaving the service of the Organisation

(3) An employee shall, on taking home leave as defined in Article 60, be entitled, in accordance with the provisions of Article 80, to the reimbursement of travel expenses actually incurred for the outward and return journey between the place of employment and their home.

(4) Transport between Office premises at the place of employment shall be excluded from these provisions.

Article 78[2]
Daily subsistence allowance

(1) An employee holding a travel order shall be entitled to a daily subsistence allowance as compensation for costs incurred for:

(a) overnight accommodation
(b) breakfast
(c) lunch
(d) dinner
(e) refreshments
(f) miscellaneous expenses.

The daily subsistence allowance is calculated from the scheduled departure time of the flight, train or ship at the beginning of the duty travel, until the actual arrival time of the flight, train or ship at the end of the duty travel. One and a half hours shall be added to the travel time at the beginning and end of the duty travel to compensate for travel to and from the airport, station or port.

If the employee travels, in the interests of the Office, in their own car, the time of departure from the employee's place of employment at the start of the duty travel and the time of arrival at the employee's place of employment at the end of the duty travel shall be the basis for the calculation of the daily subsistence allowance.

(2) The amounts of the daily subsistence allowance payable shall be calculated as follows:

(a) 100% for each complete 24-hour period.
(b) 25% for periods between 4 hours and 8 hours. The same shall apply

1 Amended by decision of the Administrative Council CA/D 4/10.
2 Amended by decision of the Administrative Council CA/D 8/09.

in respect of any period of 4 hours or more but less than 8 hours in excess of a complete 24-hour period.

(c) 50% for periods of more than 8 hours, but without overnight accommodation. The same shall apply in respect of any period of 8 hours or more but less than 24 hours in excess of a complete 24-hour period.

(d) 100% for periods of more than 8 hours but less than 24 hours, but with overnight accommodation. The same shall apply in respect of any period of 8 hours or more but less than 24 hours in excess of a complete 24-hour period.

(3) If the Office or a third party compensates the duty traveller for travel expenses by providing meals or overnight hotel accommodation, the daily subsistence allowance shall be reduced by 15% for each main meal and 50% for overnight hotel accommodation. Breakfast is not considered to be a main meal for the purpose of these provisions.

(4) If the expected expenditure for accommodation (room, breakfast and taxes) exceeds 60% of the daily subsistence allowance, a supplement of up to 30% of the daily subsistence allowance may be paid.

(5) The rate of the daily subsistence allowance shall be set out in Annex V. For states not included in that Annex, the allowance shall be equivalent to that payable to officials of the United Nations applicable as per 1 January each year, converted into the equivalent euro amount. These amounts shall be increased by a percentage set by the President of the Office, to compensate for the miscellaneous expenses referred to in paragraph(1) (f).

(6) For duty travel of over two months' duration, special provisions may be adopted by the President of the Office.

(7)[1] An employee placed on sick leave during duty travel shall continue to draw the daily subsistence allowance. Should they be hospitalised, entitlement to the daily subsistence allowance shall terminate and their expenses shall be reimbursed in accordance with Article 83a.

Article 79[2/3]
Transportation expenses

(1) An employee holding a travel order shall, in accordance with provisions defined by the President of the Office, be entitled to reimbursement of the cost of the journey for the shortest standard route and the most economical mode of transport allowing for flexible booking of departure time and cancellation.

(2) The President of the Office may decide to compensate duty travellers for the costs of subsidiary transportation, such as taxi costs, by way of a lump sum.

1 Modified by decision of the Administrative Council CA/D 2/18.
2 See Circular No. 319.
3 Amended by decision of the Administrative Council CA/D 8/09.

Article 80[1]
Other travel expenses

(1) An employee shall also, subject to paragraph 2 of this Article, be entitled, in accordance with the provisions set out in Article 79, to reimbursement of travel expenses actually incurred:

(a) when taking up appointment, for the journey from their place of recruitment to their place of employment;
(b) on transfer from one place of employment to another place of employment, provided such transfer exceeds two months;
(c) when taking home leave under the conditions of Article 60, for the outward and return journey between the place of employment and their home;
(d) on leaving the service of the Office:

- either for the journey from the place of employment to their home as defined in Article 60, paragraph 2,
- or for the journey from the place of employment to any other place, provided that the expenses reimbursed in this case do not exceed those which would have been authorised for travel from the place of employment to their home.

(2) The reimbursement of travel expenses provided for in paragraph 1 of this Article will be refused in whole or in part in the following cases:

(a) if all or part of the expenses in question are borne by a national administration or any other authority;
(b) on leaving the service of the Office if either the journey has not been made or the request for reimbursement has not been presented within two years from the date of leaving the service;
(c) on leaving the service of the Office if the person concerned has resigned before having completed twelve months' service with the Office.

(3) An employee who is entitled to the household allowance shall, after they have been confirmed in their appointment, be entitled:

(a) in accordance with paragraph 1(a), to the reimbursement of the travel expenses actually incurred by their spouse and dependent children, on taking up residence at the place of employment;
(b) in accordance with paragraph 1(b), to the reimbursement of the travel expenses actually incurred by their spouse and dependent children on transfer from one place of employment to another;
(c) in accordance with paragraph 1(c), to the reimbursement of the travel expenses actually incurred by their spouse and dependent children for the return journey between the place of employment and their home;
(d) in accordance with paragraph 1(d), to the reimbursement of the travel expenses actually incurred in respect of their spouse and dependent children on leaving the service of the Office with the proviso, however, that

1 Amended by decision of the Administrative Council CA/D 20/23.

reimbursement shall be refused if the employee resigns before completing twelve months' service with the Office.

(4) A spouse and dependent children, for the purposes of paragraph 3 above, shall be considered as being of the same grade as the employee concerned.

(5) The President of the Office may, under exceptional circumstances, authorise the payment of travel expenses for other dependants in respect of whom the employee receives a dependants' allowance under the provisions of Article 70.

Article 81[1]
Lump sum compensation for removal expenses

(1) An employee shall be entitled to lump sum compensation for expenses actually incurred for the removal of household and personal effects on the following occasions:

(a) on taking up appointment, on condition that their place of recruitment is at least 100 kilometres from their place of employment, and provided that the removal is completed within six months of the confirmation of their appointment. If the removal on taking up appointment is not completed prior to any notification of termination of service, the employee shall not be entitled to lump sum compensation;
(b) on transfer from one place of employment to another place of employment, provided such transfer exceeds two months, and provided the removal is completed within twelve months of the date of transfer;
(c) on leaving the service after at least two years of active service and moving to a permanent residence that is not at the place of employment. The entitlement to lump sum compensation on leaving the service will lapse if the removal is not completed within two years of leaving the service.

(2) The lump sum compensation shall be calculated on the basis of distances from or to the places referred to in paragraph 1, the reason for the removal and the employee's family situation at the time the removal is completed. The rates, which shall be determined by the President of the Office, will be subject to periodic review.

(3) Where an employee is married to another employee and both have moved from one common residence to another common residence, they will each be compensated at the rate applicable to an employee not entitled to the household allowance. The supplement for a dependent child within the meaning of Article 69, or other dependent person within the meaning of Article 70 who lives in the common household, shall only be paid once, to the spouse in receipt of the family allowances.

1 Amended by decision of the Administrative Council CA/D 4/10.

(4) Any entitlement of the employee or their spouse from any other source for the same purpose of reimbursement of removal expenses will be deducted from the lump sum compensation provided for under this Article.

(5) The President of the Office will lay down further terms and conditions for the application of this Article.

Article 82
Entertainment expenses

(1) An employee who, by reason of their duties, regularly incurs entertainment expenses may be granted a fixed rate allowance by the President of the Office. The amount of the fixed rate allowance shall be determined by the Administrative Council.

(2) In the case of an employee who, as a result of special instructions occasionally incurs entertainment expenses for official purposes, the amount of the entertainment allowance shall be determined in each instance on the basis of supporting documents and on terms to be laid down by the President of the Office.

Chapter 2
Social security

Article 83[1]
Social security scheme

(1) Employees shall be affiliated to the Office's social security and pension schemes. However, employees recruited on a fixed-term appointment of two years or less may, on taking up service, opt instead to be covered by the national social security and pension scheme of their place of employment if the national scheme so permits. In that case, the Office shall pay the applicable employer contributions to the national scheme. Provisions of the Service Regulations specific to the Office's own incapacity cover and social security and pension schemes shall not apply to employees who have opted to be covered by a national social security and pension scheme.

(2) In any event, employees shall automatically be affiliated to the Office's social security and pension schemes on the first day of their third year of continuous service. They may continue, however, to contribute to a national scheme on a voluntary basis and at their own expense.

Article 83a[2]
Healthcare insurance

(1) (a) In accordance with the Implementing Rules, an employee, their spouse, their children and other dependants within the meaning of Articles 69 and 70 shall be insured against expenditure incurred in case of sickness, accident, pregnancy and confinement.

(b) The total contribution required to meet reimbursements under such insurance, calculated by reference to the basic salary, shall be set by the President of the Office, on the basis of an actuarial study. One-third of such contribution shall be charged to the employee.

(c) Where an employee whose child ceases to be treated as a dependant within the meaning of Article 69 can provide evidence that the child is not in gainful employment, the child will continue to be insured as provided for in paragraph (a) for a maximum period of six months. This cover shall not give rise to the levy of a contribution. The six-month period shall commence on the date of the loss of status as a dependent child within the meaning of Article 69. This cover shall cease at the end of the six-month period or when the child reaches twenty-six years of age, whichever is the earlier.

(d) Notwithstanding the provisions of paragraphs (a) and (b), a spouse who is in gainful employment outside the Office shall also be insured as provided for in paragraph (a), subject, where appropriate, to an

1 Inserted by decision of the Administrative Council CA/D 2/18.
2 Amended by decision of the Administrative Council CA/D 22/22.

additional contribution defined in the Implementing Rules for the present article.

(e) Should the President of the Office deem it necessary to have an evaluation of the cost of the present scheme made by one or more actuaries and should this show that the total contribution set pursuant to paragraph (b) above no longer corresponds to the contribution necessary to finance the benefits payable under these Regulations, the President shall establish what changes, if any, are to be made to the rates of contribution.

(f) Any adjustment in the total contribution rate pursuant to paragraph (b) above as a result of recommendations of the actuaries referred to in paragraph (d) above shall be limited to 10% per year of the contribution rate in force.

(2) (a) An employee whose service terminates for reasons other than retiring may, on request, continue to be insured as provided for in paragraph 1(a) on condition that they cannot be covered by another public and/or private healthcare insurance. However the total contribution shall be borne by the then former employee.

(b) The request should be made before termination of service and the insurance may continue (i) for a maximum of twelve months or (ii) in the case of employees with continuous service of less than one year, for a period equal to their fixed-term appointment unless the President of the Office, following an examination made by a medical practitioner designated by the President of the Office, decides otherwise; in this case it must be established that the employee is suffering from a serious or protracted illness which was contracted before leaving the service and notified to the Office within six months of leaving.

(c) An employee entitled to a deferred retirement pension whose service terminates after the age of 50 or has a total of at least 25 years of reckonable service may, on request, continue to be insured as provided for in paragraph 1. However, after a period of time exceeding 10% of the years actually served at the Office, the total contribution shall be borne by the employee. The amount of contribution shall be calculated by reference to the final basic salary for the grade and step held.

When an employee entitled to a deferred retirement pension has a spouse in active service in the Office, this option will be compulsory unless the employee is primarily covered under another healthcare insurance scheme.

(d) Insured persons who cease to fulfil the conditions of paragraph 1(a) may, on request, continue to be insured by way of an individual contract, excluding the cover referred to in paragraph 6. Ad hoc premiums for such a contract shall be set by the President of the Office on the basis of an actuarial study which should have regard to the age of the insured persons concerned.

(3) (a) An employee who has remained in the service of the Office until they retire shall be entitled to the cover provided for in paragraph 1(a) once they retire. An employee who has continued to be insured according to the provisions of paragraph 2(c) shall be entitled to the cover provided for in paragraph 1 once they become entitled to a retirement pension. The amount of contribution shall be calculated by reference to the amount of pension.

(b) Benefits shall also apply to the person entitled to a survivor's pension following the death of an employee who was in active employment, or who remained in the service of the Office until they retired, or have continued to be insured according to the provisions of paragraph 2(c), provided the survivor was insured under the present insurance scheme at the time of the death of the employee or former employee. The amount of contribution shall be calculated by reference to the amount of the survivor's pension.

(4) A person entitled to an orphan's or dependant's pension shall not be entitled to the cover provided for in paragraph 1(a) except at their request. The contribution shall be calculated by reference to the orphan's or dependant's pension.

(5) Where applicable, the portion of remuneration owed on termination of service as a result of compulsory participation in the salary savings plan shall be reduced by the amount of the healthcare insurance contribution, a third of which shall be borne by the employee, provided that they are entitled to a pension.

(6) Where the total medical expenditure not reimbursed for any period of twelve months exceeds half the employee's monthly basic salary or half the pension paid, special reimbursement shall be allowed by the President of the Office. In addition, in the case of medical expenditure which exceeds one-fifth but is less than one-half of the monthly basic salary, or of the pension, an additional reimbursement shall be allowed, coverage for which is to be met as laid down in paragraph 1. For a pension paid under the new pension scheme, reference shall be made to 70% of final basic salary rather than to the pension.

(7) Any person entitled to the foregoing benefits shall declare the amount of any other reimbursement to which they or any other person provided for in paragraph 1(a) are entitled for the same expenditure. Where the total which they would receive by way of reimbursement exceeds 100% of the expenditure incurred, the difference shall be deducted from the amount to be reimbursed pursuant to paragraphs 1(a) and 6.

Article 83b[1/2]
Long-term care insurance

(1)[3] In accordance with the Implementing Rules, an employee, their spouse, their former spouse, their dependent children within the meaning of Article 69 and other dependants within the meaning of Article 70 shall be insured on either a compulsory or a voluntary basis against expenditure arising from reliance on long-term care. This insurance is intended to provide a fixed amount of financial support to defray some of the expenses incurred if an insured person's autonomy becomes seriously impaired on a long-term basis and they therefore require help to carry out everyday activities; it shall not include any expenditure on medical fees associated with the treatment of an illness or resulting from pregnancy or an accident.

(2)[4] A decision on an insured person's entitlement to the benefits of the long-term care insurance will be taken by the President of the Office, based on, inter alia, a regularlyissued medical opinion determining whether the insured person meets or continues to meet the conditions laid down in paragraph 1.

(3)[5] If the insured risk materialises before termination of affiliation to the long-term care insurance scheme, benefits under the long-term care insurance shall cease to be paid once the insured person can draw benefits from another long-term care insurance provider.

Article 84[6]
Death insurance for permanent employees[7]

(1)[8] The benefits payable shall be as follows:

(a) a fixed amount for funeral expenses incurred for the permanent employee, their spouse and, where appropriate, their dependants under Articles 69 and 70
(b) in the event of death of the permanent employee: a lump sum equal to 2.75 times their annual basic salary calculated in accordance with the scale given in Annex III.

(2)[9] The contribution which is required to meet the insurance for funeral expenses is included in the contribution provided for under Article 83a, paragraph 1.

(3) One third of the contribution, calculated by reference to the basic salary of the employee, which is required to meet the insurance of the risks under paragraph 1(b) shall be charged to the employee.

1 Amended by decision of the Administrative Council CA/D 2/18.
2 See "Long-term care insurance" in Part Ib 13.
3 Amended by decision of the Administrative Council CA/D 11/22.
4 Inserted by decision of the Administrative Council CA/D 11/22.
5 Amended by decision of the Administrative Council CA/D 11/22.
6 Amended by decision of the Administrative Council CA/D 2/15. See also Article 9 CA/D 20/17.
7 Amended by decision of the Administrative Council CA/D 2/18.
8 Amended by decision of the Administrative Council CA/D 11/22.
9 Modified by decision of the Administrative Council CA/D 2/18.

(4)[1] Insurance cover shall end upon termination of service.

(5)[2] A permanent employee who has been in the service of the Office for at least two years may on request continue to be insured after termination of service under the conditions provided for in paragraph 1(b) in the event of death. However, the total contribution shall be borne by the former permanent employee. The benefits payable will be calculated on the basic salary received at the time of termination of their service. The request should be made before the termination of service. The insurance cover shall end at the end of the month during which the former permanent employee reaches the age of 65 years.

Article 84a[3]
Death insurance for fixed-term employees

(1)[4] The benefits payable shall be as follows:

(a) a fixed amount for funeral expenses incurred for the fixed-term employee, their spouse and, where appropriate, their dependants under Articles 69 and 70;
(b) in the event of death of the fixed-term employee: a lump sum equal to 2.75 times their annual basic salary calculated in accordance with the scale given in Annex III.

(2) The contribution which is required to meet the insurance for funeral expenses is included in the contribution provided for under Article 83a, paragraph 1.

(3) One-third of the contribution, calculated by reference to the basic salary of the fixedterm employee, which is required to meet the insurance of the risks under paragraph 1(b) shall be charged to the fixed-term employee.

(4)[5] Insurance cover shall end upon termination of service.

(5)[6] A fixed-term employee who has been in the service of the Office for at least two years may on request continue to be insured after termination of service for a maximum of twelve months under the conditions provided for in paragraph 1(b) in the event of death, on condition that they cannot be covered by another death insurance. However, the total contribution shall be borne by the then former fixed-term employee. The benefits payable will be calculated on the basic salary received at the time of termination of their service. The request should be made before the termination of service. The insurance cover shall end at the end of the month during which the former fixed-term employee reaches the age of 65 years.

1 Inserted by decision of the Administrative Council CA/D 11/22.
2 Amended by decision of the Administrative Council CA/D 11/22.
3 Inserted by decision of the Administrative Council CA/D 2/18.
4 Amended by decision of the Administrative Council CA/D 11/22.
5 Inserted by decision of the Administrative Council CA/D 11/22.
6 Amended by decision of the Administrative Council CA/D 11/22.

Article 85
Maternity grant

(1) On the birth of a child to an employee the employee shall receive a grant, the amount of which is shown in Annex III.

(2) This grant shall also be payable in the event of termination of pregnancy after not less than seven months.

(3) An employee receiving a grant on the birth of a child shall declare any grants of the same nature which they or their spouse receive from other sources for the same child; such grants shall be deducted from the grant provided for above. Where both parents are employees of the Office, the grant shall be paid to the mother only.

Article 86
Reimbursement in the event of death

(1) In the event of an employee's death, the Office shall bear any costs involved in transporting the body to the place of their home as defined in Article 60.

(2) In the event of an employee's death the surviving spouse and/or dependants shall be entitled to reimbursement of the following:

(a) travel expenses actually incurred for the journey from the place of employment to the home as defined in Article 60, paragraph 2, within the provisions of Article 80 and including the option contained in paragraph 1 d) of that Article;

(b) expenses actually incurred for the removal of household and personal effects within the provisions of Article 81.

Applications for these reimbursements shall be submitted to the Office within two years from the date of the employee's death.

Article 87
Gifts, loans and advances[1]

Gifts, loans or advances may be made to employees, former employees or a deceased employee's successors in title, where as a result inter alia of serious or protracted illness or by reason of family circumstances they are in a particularly difficult position.

1 Regarding the grant of home loans, see Part Ia 5.

Chapter 3
Recovery of undue payment

Article 88[1]
Recovery of undue payment

(1) Any sum overpaid shall be recovered if the recipient was aware that there was no due reason for the payment or if the fact of the overpayment was patently such that they could not have been unaware of it.

(2) The Office's right of recovery shall lapse three years after the undue payment was made, unless it resulted from gross negligence or fraud on the part of the recipient.

(3) Recovery shall be made by deductions from the monthly or other payments due to the person concerned, taking into account their social and financial situation.

1 Amended by decision of the Administrative Council CA/D 20/17.

TITLE VI
MEDICAL OPINIONS[1]

Article 89[2]
Medical opinions

(1) Unless these Regulations expressly provide otherwise, medical opinions which are to be expressed for the purposes of these Service Regulations shall be provided by a medical practitioner chosen by the President of the Office. In certain cases specified in these Regulations, the medical practitioner shall be chosen from a list of doctors, of an acknowledged expert level, to be drawn up by the President of the Office and communicated to the staff. The list shall contain at least three medical practitioners, including at least one specialist in general internal medicine, and shall be published.

(2) The medical practitioner consulted pursuant to this Title shall consider medical questions independently and objectively. In particular they shall neither seek nor accept any instructions, nor shall they take part in a case in which they have a potential conflict of interest.

(3) For their assessment, the medical practitioner may, if the circumstances so require, consult the employee's doctor, without prejudice to any applicable national deontological rules.

(4) In addition, for their assessment, the medical practitioner may, in exceptional circumstances, take into account inter alia pre-existing medical reports or certificates provided by the staff member to the Office in the context of other medical procedures, as long as they are not outdated, they are necessary and relevant, and their use is compatible with the purpose for which they had been originally provided.

(5) The medical practitioner shall inform the President of the Office of their conclusions in writing.

(6) The President of the Office shall decide whether to follow the medical practitioner's conclusions or to seek an additional medical opinion under Article 90. The President of the Office shall inform the employee of their decision and provide them with a copy of the conclusions.

(7) In case of disagreement with the outcome of a medical opinion, one of the following procedures applies:

   (a) normally, the procedure for seeking additional medical opinions set forth in Article 90;
   (b) only in those cases for which it is so specified in these Service Regulations, an arbitration procedure under Article 91.

1 Amended by decision of the Administrative Council CA/D 2/15. See also Article 9 CA/D 20/17.
2 Amended by decision of the Administrative Council CA/D 20/22.

Article 90[1]
Additional medical opinions

(1) A second medical opinion may be sought by the President of the Office or upon request of the employee within two weeks upon notification of the President's decision under Article 89, paragraph 5.

If the second medical opinion concurs with the previous one and complies with the procedural and formal requirements set forth in Article 89, it shall be binding.

(2) If the second medical opinion differs from the previous one in aspects that are material to the grant of a requested entitlement, a third opinion shall be sought by the President of the Office from a medical practitioner chosen from the list described in Article 89, paragraph 1.

Provided it complies with the procedural and formal requirements set forth in Article 89, the third medical opinion shall be final and binding.

Article 91[2]
Arbitration procedure

(1) Notwithstanding Article 90, an arbitration procedure shall apply where it is contested whether an employee's absence on grounds of sick leave is justified, as foreseen in Article 62a, paragraph 6.

(2) The medical question in dispute shall be referred to a medical practitioner chosen by the President of the Office from the list laid down in Article 89, paragraph 1. This medical practitioner's opinion, which shall be given after consultation of the employee's medical practitioner and of the medical practitioner advising the President of the Office, shall be final and binding.

Article 92[3]
Costs

The costs occasioned by medical opinions given under this Title shall be borne by the Office.

1 Amended by decision of the Administrative Council CA/D 2/15. See also Article 9 CA/D 20/17.
2 Amended by decision of the Administrative Council CA/D 20/22.
3 Amended by decision of the Administrative Council CA/D 2/15. See also Article 9 CA/D 20/17.

TITLE VII
DISCIPLINARY MEASURES

Chapter 1
General provisions

Article 93[1]
Conduct liable to disciplinary measures

(1) Any misconduct by an employee or former employee as defined in Article 21 paragraph 1 may make them liable to disciplinary action.

(2) Where the appointing authority becomes aware of evidence or indications of misconduct it may:

(a) refer the matter to the unit in charge of investigating allegations or indications of misconduct;
(b) decide that no case can be made against the employee;
(c) decide, even if there is or appears to have been a failure to comply with obligations, that no disciplinary measure shall be taken and, if appropriate, address a caution to the employee;
(d) impose a disciplinary measure provided for in Article 94 paragraph 1(a) or (b); or
(e) initiate disciplinary proceedings before the Disciplinary Committee.

Article 94[2]
Disciplinary measures

(1) The appointing authority may impose one of the following disciplinary measures on employees and former employees:

(a) a written warning;
(b) a reprimand;
(c)[3] suspension of eligibility to be considered in the rewards exercise for one year;
(d) relegation in step;
(e) temporary downgrading for a period of between 15 days and one year;
(f) downgrading in the same job group;
(g) classification in a lower job group, with or without downgrading;
(h) dismissal and/or a reduction in the amount of the severance grant under Article 11 of the Pension Scheme Regulations or of the retirement pension or of the retirement pension for health reasons and, where applicable, of the portion of remuneration owed as a result of participation in the salary savings plan. Any such reduction shall not

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 11/22.

be more than one third of the sum in question and, as applied to the pension, shall not make its amount less than the minimum laid down in Article 10, paragraph 3, of the Pension Scheme Regulations.

(2) A single case of misconduct shall not give rise to more than one disciplinary measure.

(3)[1] No disciplinary measure may be taken unless the employee concerned has been informed of the charges made against them and has had the opportunity to state their case, orally or in writing. The employee may be represented by a person of their choice.

Article 94a[2]
Proportionality of the disciplinary measure

(1) The disciplinary measure imposed shall be proportionate to the seriousness of the misconduct.

(2) To determine the seriousness of the misconduct and to decide upon the disciplinary measure to be imposed, account shall be taken in particular of:

(a) the nature of the misconduct and the circumstances in which it occurred,
(b) the extent to which the misconduct adversely affects the integrity, reputation or interests of the Organisation,
(c) the extent to which the misconduct involves intentional actions or negligence,
(d) the motives for the employee's misconduct,
(e) the employee's grade and seniority,
(f) the degree of the employee's personal responsibility,
(g) the level of the employee's duties and responsibilities,
(h) whether the misconduct involves repeated action or behaviour,
(i) the conduct of the employee throughout the course of their career.

Article 94b[3]
Reference in personnel file

(1) Any disciplinary measure taken against an employee or former employee shall be recorded in their personnel file.

(2) An employee or former employee against whom a disciplinary measure other than dismissal has been taken may, after three years in the case of a written warning or reprimand or after six years in the case of any other measure, submit a request for the deletion from their personnel file of all reference to such measure. The appointing authority may grant this request if the circumstances so justify.

1 Amended by decision of the Administrative Council CA/D 11/22.
2 Inserted by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 11/22.

Article 95[1]
Reopening of proceedings

Where new facts supported by relevant evidence come to light, disciplinary proceedings may be reopened by the appointing authority on its own initiative or on application by the employee or former employee concerned.

Article 95a[2]
Costs

Costs incurred on the initiative of an employee or former employee concerned in the course of disciplinary proceedings, and in particular fees paid to a person chosen to assist the employee or for their defence, shall be borne by the employee where the disciplinary proceedings result in the imposition of one of the measures provided for in Article 94.

Article 96[3]
Reparation of damage

If no case has been made against the employee or former employee, they may request that the damage suffered be made good by giving appropriate publicity to the decision of the appointing authority.

Chapter 2
Disciplinary Committees[4]

Article 97[5]
Remit of the Disciplinary Committees

(1) Before imposing any of the measures listed under Article 94, paragraphs 1(c) to (h), the appointing authority must refer the matter to a Disciplinary Committee for a reasoned opinion, in accordance with the procedure set out in Chapter 3 of this Title.

(2) The Disciplinary Committee shall:

(a) establish whether misconduct has occurred, having regard to the submissions of the parties;
(b) if it is satisfied that misconduct has occurred, determine its seriousness, taking into account Article 94a and, where applicable, Article 100; and
(c) deliver a reasoned opinion to the appointing authority in accordance with Article 102.

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Inserted by decision of the Administrative Council CA/D 7/17.
4 Amended by decision of the Administrative Council CA/D 7/17.
5 Amended by decision of the Administrative Council CA/D 7/17.

Article 97a[1]
Composition of the Disciplinary Committees

(1) Disciplinary Committees shall be established:

(a) by the Administrative Council in respect of procedures against senior employees for whom the Administrative Council is the appointing authority; and
(b) by the President in respect of all other employees.

(2) The Disciplinary Committee shall consist of a chair and four members, unless it is enlarged in accordance with paragraph 3. The chair and members may be replaced by alternates.

(3) In cases involving an employee or former employee in job group 4, 5 or 6, the Disciplinary Committee shall be enlarged by two additional members in active employment in the same job group as the employee subject to disciplinary proceedings.

(4) The Disciplinary Committee as established under paragraph 1(b) shall be composed:

(a) of a chair and an alternate chair who possess the qualifications required for appointment to high judicial office or who are lawyers with experience in the area of disciplinary law acquired at national or international level, and who are not Office employees in active employment and have not been Office employees within the past ten years; and
(b) of members and alternates appointed as follows, from among the employees in active employment appointed by the President:

(i) from job group 2 in respect of cases concerning employees in job group 2;
(ii) from job group 2 or 3 in respect of cases concerning employees in job groups 3 to 6.

1 Inserted by decision of the Administrative Council CA/D 7/17.

Article 98[1]
Appointment of the Disciplinary Committees

(1) The chair and alternate chair shall be appointed to the Disciplinary Committee by the appointing authority of the employee or former employee concerned.

(2) The four members of the Disciplinary Committee as established under Article 97a, paragraph 1(a), shall be appointed by the Administrative Council.

(3) For the Disciplinary Committee as established under Article 97a, paragraph 1(b), the President and the Central Staff Committee shall each appoint two members and at least two alternates.

(4)[2] The chair, the members and the alternates of the Disciplinary Committee as established under Article 97a, paragraph 1(b), shall be appointed for a period of three years. However, the appointing authority may provide for a shorter period for members and their alternates, subject to a minimum of one year. Where a chair, member or alternate resigns, the vacancy shall be filled by the same method as that laid down in paragraphs 1 to 3.

(5) The two members of the Disciplinary Committee as enlarged in accordance with Article 97a, paragraph 3, shall be appointed in the following manner:

(a) the President shall draw up a list containing, if possible, the names of two or more employees in each job group. The Central Staff Committee shall submit to the President a list drawn up on the same basis;
(b) within ten calendar days of the notification of the report in accordance with Article 99, the chair of the Disciplinary Committee, in the presence of the person concerned, shall draw by lot from the above-mentioned lists the names of the two additional members, one member being drawn from each list. The chair may decide that the secretary appointed under Article 98a, paragraph 1, is to replace him in this procedure. The chair shall notify the employee concerned and the individual members of the Disciplinary Committee of its complete composition.

(6) Within five calendar days of the Disciplinary Committee's establishment, the parties may make a reasoned objection in respect of any of its members, but not of the chair. Within the same time limit, the chair and any members may ask to be excused from duty for legitimate reasons and shall withdraw if a conflict of interests exists. The chair shall decide on the appropriate action in respect of any objection or excuse made. Any vacancies arising shall be filled in accordance with the procedure laid down in the present article.

1 Amended by decision of the Administrative Council CA/D 7/17. For entry into force and transitional provisions, see Article 83 of CA/D 7/17.
2 Modified by decision of the Administrative Council CA/D 3/19.

Article 98a[1]
Functioning of the Disciplinary Committee

(1) The Disciplinary Committee shall be assisted by a secretary appointed by the appointing authority.

(2) The chair and members of the Disciplinary Committee shall be completely independent in the performance of their duties.

(3) The deliberations and proceedings of the Disciplinary Committee shall be secret.

(4) The chair of the Disciplinary Committee shall not vote on matters before it, except as regards matters of procedure or where votes are tied.

(5) The chair shall ensure that the procedural decisions of the Disciplinary Committee are implemented and shall bring all information and documents relating to the case to the attention of each of its members.

(6) The secretary shall draw up minutes of meetings of the Disciplinary Committee. Witnesses shall sign the minutes recording their evidence.

Chapter 3
Disciplinary proceedings before the Disciplinary Committee[2]

Article 99[3]
Statement of facts and defence

(1) The appointing authority shall submit a report to the Disciplinary Committee, stating clearly the facts complained of and, where appropriate, the circumstances in which they arose, including any aggravating or extenuating circumstances.

(2) The report shall be communicated to the employee or former employee concerned and to the chair of the Disciplinary Committee, who shall bring it to the attention of its members.

(3)[4] On receipt of the report, the employee or former employee concerned shall have the right to obtain their complete personnel file and take copies of all documents relevant to the proceedings, including exonerating evidence.

(4) The employee or former employee concerned shall have not less than 15 calendar days from the date of receipt of the report initiating the disciplinary proceedings to prepare a defence.

1 Inserted by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.
4 Amended by decision of the Administrative Council CA/D 11/22.

(5)[1] The employee or former employee concerned may be assisted by a person of their choice.

Article 100[2]
Acknowledgement of misconduct

(1) If, in the presence of the chair of the Disciplinary Committee, the employee or former employee concerned acknowledges misconduct on their part and accepts unreservedly the report referred to in Article 99, the appointing authority may, in accordance with the principle of proportionality between the misconduct and the measure being considered, withdraw the case from the Disciplinary Committee.

(2) Where a case is thus withdrawn, the chair shall deliver an opinion on the measure considered. Under this procedure the appointing authority may, in addition to the considerations under Article 94a, paragraph 2, take the employee's or former employee's acknowledgement into account as a mitigating factor for the final disciplinary measure.

(3) The employee or former employee concerned shall be informed before acknowledging their misconduct of the possible consequences of such acknowledgement.

Article 101[3]
Examination of the case and hearing

(1) Before the first meeting of the Disciplinary Committee, the chair shall give one of its members the task of preparing a general report on the matter and shall inform the other members accordingly.

(2) The employee or former employee concerned shall be heard by the Disciplinary Committee; at the hearing, they may submit observations in writing or orally, whether in person or through a representative.

(3) The parties may propose witnesses. The Disciplinary Committee shall hear only such witnesses as it considers relevant.

(4) The appointing authority shall be represented before the Disciplinary Committee by employees and/or representatives mandated to this effect.

(5) The unit in charge of investigating allegations or indications of misconduct shall assist in such proceedings where necessary and shall provide any required additional information and clarification. The Disciplinary Committee may hear investigators in cases where the unit conducted an investigation. They shall be heard as experts.

(6) If the Disciplinary Committee requires further information concerning the facts complained of or the circumstances in which they arose, it may order

1 Amended by decision of the Administrative Council CA/D 11/22.
2 Inserted by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.

an inquiry in which each side can submit its case and reply to the case of the other side.

Article 102[1]
Reasoned opinion

(1) After consideration of documents submitted and having regard to any statement made orally or in writing and to the results of any inquiry undertaken, the Disciplinary Committee shall, by majority vote, deliver a reasoned opinion.

(2) The opinion shall set out:

(a) the Disciplinary Committee's findings as to whether misconduct has occurred;
(b) the Disciplinary Committee's determinations regarding the seriousness of the misconduct, if established, taking into account Article 94a and, where applicable, Article 100; and
(c) the Disciplinary Committee's recommendation as to any disciplinary measure to which those facts should give rise, having due regard to the full range of disciplinary measures provided for in Article 94.

(3) The opinion shall be signed by the chair of the Disciplinary Committee.

(4) The Disciplinary Committee shall transmit the opinion to the appointing authority and to the employee concerned within two months of the date of receipt of the report of the appointing authority under Article 99, provided that this time limit is commensurate with the complexity of the case. Where an inquiry has been held at the Disciplinary Committee's initiative, the period shall be four months, provided that this is commensurate with the complexity of the case.

Article 103[2]
Decisions

The appointing authority shall take its reasoned decision as provided for in Articles 94 and 94a within two months of receipt of the opinion of the Disciplinary Committee.

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Inserted by decision of the Administrative Council CA/D 7/17.

Chapter 4[1]
Suspension and parallel criminal proceedings

Article 104[2]
Suspension

(1) If the appointing authority charges an employee with serious misconduct, whether through a failure to honour their professional obligations or through an infringement of the applicable law, it may immediately suspend them for a specified period.

(2) The decision suspending an employee shall state whether the employee is to continue to receive their full remuneration during the period of suspension or what part thereof is to be withheld. The part withheld shall not be more than half the employee's basic salary.

(3) The situation of a suspended employee must be definitively settled by a final decision of the appointing authority within the following period, as from the date on which the suspension takes effect:

(a) six months for those employees whose appointing authority is the President;
(b) twenty-four months for those employees whose appointing authority is the Administrative Council.

If no such decision is taken within the respective period, the employee concerned shall be entitled to receive full remuneration again.

The period for both groups of staff may be extended in exceptional circumstances beyond the respective limits, in particular in case of criminal proceedings within the meaning of Article 105.

(4) Sums withheld under paragraph 2 shall be repaid to the employee if the final decision imposes a disciplinary measure no more severe than a written warning, reprimand or deferment of step advancement or promotion, or if no disciplinary measure is imposed.

Article 105[3]
Parallel criminal proceedings

Where the employee is subject to criminal proceedings for the same conduct that gave rise to proceedings under this Title, a final decision shall be taken only after the verdict of the court hearing the case has become final.

1 Inserted by decision of the Administrative Council CA/D 7/17.
2 Inserted by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.

TITLE VIII[1]
SETTLEMENT OF DISPUTES

Article 106
Individual decisions

(1) Any decision relating to an employee, a former employee, or rightful claimant on their behalf shall at once be communicated in writing to the person concerned.

(2) Any decision adversely affecting a person shall state the grounds on which it was based.

Article 107[2]
Request to take an individual decision

(1) An employee, a former employee, or rightful claimant on their behalf may submit a written request that an individual decision relating to them be taken by the appointing authority which is competent to take such decision.

(2) Where the competent authority is the President of the Office, the individual decision shall be taken within two months of the date of receipt of the request. If at the end of the period of two months no decision has been communicated, this shall be deemed to constitute an implied decision rejecting it.

(3) Where the competent authority is the Administrative Council, the individual decision shall be taken as soon as possible, taking due account of any specific provisions applicable for the submission of documents to the Council laid down in Article 9 of the Rules of Procedure of the Administrative Council, and in any case no later than at the second Council meeting after receipt of the request. Failure to communicate a decision within a period of fourteen calendar days from the end of the Council meeting at which the decision was due to be taken shall be deemed to constitute an implied decision rejecting the request. Where the person concerned was not informed of the date on which the decision was due to be taken, failure to communicate a decision within a period of fourteen calendar days from the end of the second Council meeting after receipt of the request shall be deemed to constitute an implied decision rejecting it.

1 See also "Implementing rules for Articles 106 to 113 of the Service Regulations for permanent and other employees of the EPO" in Part 1a (Decision of the Administrative Council CA/D 9/12).

2 Amended by decision of the Administrative Council CA/D 20/23, with transitional provisions (Article 12(2)): Articles 107, 108, 109 and 110 of the Service Regulations as amended by Articles 4, 5, 6, 7, 8 and 9 of this decision will apply to requests to take an individual decision and requests for review submitted on or after 1 January 2024.

Article 108[1]
Procedures for the settlement of disputes

(1) Any person to whom Article 106 or 107 applies may challenge an individual decision adversely affecting them, or an implied decision of rejection as defined in Article 107, paragraph 2 or 3:

(a) through the review procedure;
(b) through the internal appeal procedure;
(c) by filing a complaint with the Administrative Tribunal of the International Labour Organization.

(2) The challenging of the individual decision shall not suspend its execution.

(3) As a matter of principle, regulatory decisions are not directly challengeable.

(4) The detailed conditions relating to each of the three consecutive procedures referred to in paragraph 1 are laid down in Articles 109 to 113 and in the Implementing Rules thereto.

Article 109[2]
Review procedure

(1) A request for review shall be compulsory prior to lodging an internal appeal, unless excluded pursuant to paragraph 3.

(2) It shall be submitted within a period of three months to the appointing authority which took the individual decision challenged. This period shall start to run on the date of publication, display or notification of the individual decision challenged. Where the request is against an implied decision of rejection within the meaning of Article 107, paragraph 2 or 3, it shall start to run on the date of expiry of the period for reply.

(3) Appraisal reports referred to in Article 47a shall be excluded from the review procedure and individual decisions taken under Articles 49 and 50 of the Implementing Rules for Articles 1b and 32a shall be excluded from the review procedure.

(4) The competent appointing authority shall take a reasoned decision on the outcome of the review which shall be communicated to the person concerned in writing, indicating the means of redress available to challenge it. Such decision may then be challenged through an internal appeal under the conditions laid down in Article 110.

(5) Where the competent authority is the President of the Office, the decision on the outcome of the review shall be taken within two months of the date of receipt of the request. If at the end of the period of two months no decision on the request has been communicated, this shall be deemed to constitute

1 Amended by decision of the Administrative Council CA/D 20/23, with transitional provisions (Article 12(2)).
2 Amended by decision of the Administrative Council CA/D 20/23, with transitional provisions (Article 12(2)).

an implied decision rejecting it.

(6) Where the competent authority is the Administrative Council, the decision on the outcome of the review shall be taken as soon as possible, taking due account of any specific provisions applicable for the submission of documents to the Council laid down in Article 9 of the Rules of Procedure of the Administrative Council, and in any case no later than at the second Council meeting after receipt of the request. Failure to communicate a decision within a period of fourteen calendar days from the end of the Council meeting at which the decision on the outcome of the review was due to be taken shall be deemed to constitute an implied decision rejecting the request. Where the person concerned was not informed of the date on which the decision on the outcome of the review was due to be taken, failure to communicate a decision within a period of fourteen calendar days from the end of the second Council meeting after receipt of the request shall be deemed to constitute an implied decision rejecting it.

Article 110[1]
Internal appeal procedure

(1) An internal appeal shall be lodged within a period of three months, through the Appeals Committee, with the appointing authority which took the individual decision challenged. The period of three months shall start to run on the date of publication, display or notification of the individual decision challenged. Where the internal appeal is against an implied decision of rejection within the meaning of Article 107, paragraph 2 or 3, or Article 109, paragraph 5 or 6, it shall start to run on the date of expiry of the period for reply.

(2) The following individual decisions are excluded from the internal appeal procedure:

(a) Individual decisions taken on requests to carry on working after reaching the age of sixty-five under Article 54, paragraph 1;
(b) individual decisions taken after consultation of the Disciplinary Committee in accordance with Article 103;
(c) individual decisions taken after consultation of the Joint Committee in accordance with Article 53b, paragraph 4;
(d) appraisal reports referred to in Article 47a;
(e) individual decisions taken under Articles 49 and 50 of the Implementing Rules for Articles 1b and 32a.

(3) The Appeals Committee shall register the appeal and deliver a reasoned opinion upon it.

(4) After receipt of the Appeals Committee's reasoned opinion, the competent appointing authority shall take a final decision on the appeal, of which the appellant shall receive a copy. The appointing authority shall in general

1 Amended by decision of the Administrative Council CA/D 20/23, with transitional provisions (Article 12(2)).

follow the opinion of the Appeals Committee. If the appointing authority decides not to follow the opinion it shall set out in writing the reasons for deviating from the opinion.

Article 110a[1]
Objection procedure for appraisal reports

(1) In case of disagreement on an appraisal report referred to in Article 47a, the parties to the dispute shall endeavour to settle it through conciliation.

(2) If at the outcome of the conciliation, an employee is still dissatisfied with their appraisal report, they may challenge it by raising an objection with the Appraisals Committee.

(3) The President of the Office shall appoint the chair of the Appraisals Committee, the deputy chair and 15 employees in active employment at the beginning of each year. From among this list of 15 employees, the chair or deputy chair will choose three members for each session.

(4) The Appraisals Committee shall review whether the appraisal report was arbitrary or discriminatory.

(5) The competent authority shall take a final decision on the objection, having due regard to the assessment of the Appraisals Committee.

(6) The President of the Office may lay down further terms and conditions for the settlement of disputes regarding appraisals reports.

(7)[2] Notwithstanding the provisions of the foregoing paragraphs, a member of the Boards within the meaning of Article 1, paragraph 4, who disagrees with an appraisal report referred to in Article 47a may challenge it by raising an objection directly with a committee the chair, deputy chair and members of which shall be appointed by the President of the Boards of Appeal from among members of the Boards within the meaning of Article 1, paragraph 4. The committee shall review whether the appraisal report was arbitrary or discriminatory. The President of the Boards of Appeal shall take the final decision on the objection, having due regard to the assessment of the committee. They may lay down further terms and conditions for the settlement of disputes regarding such appraisal reports.

Article 111[3]
Composition of the Appeals Committee

(1)[4] When dealing with appeals against individual decisions taken by the Administrative Council as the competent appointing authority, the Appeals Committee shall consist of:

1 Inserted by decision of the Administrative Council CA/D 10/14.
2 Inserted by decision of the Administrative Council CA/D 20/17.
3 Amended by decision of the Administrative Council CA/D 7/17. For entry into force and transitional provisions, see Article 84 of CA/D 7/17.
4 Amended by decision of the Administrative Council CA/D 11/22.

(a) a chair and two vice-chairs appointed by the Administrative Council,
(b) four members appointed by the Administrative Council; and
(c) four members appointed by the Central Staff Committee from among employees in active employment.

(2)[1] When dealing with appeals against any other individual decision, the Appeals Committee shall consist of:

(a) a chair and two vice-chairs appointed by the President;
(b) four members appointed by the President among employees in active employment; and
(c) four members appointed by the Central Staff Committee from among employees in active employment.

(3) The chairs and vice-chairs shall possess the qualifications required for appointment to high judicial office or be lawyers with experience in the area of employment law acquired at national or international level, who are not Office employees in active employment and have not been Office employees within the past ten years.

(4) For each session, the Appeals Committee shall form, in accordance with its Rules of Procedure, one or multiple chambers, each composed of:

(a) a chair or a vice-chair serving as a presiding member appointed pursuant to paragraph 1(a) or 2(a);
(b) one member appointed pursuant to paragraph 1(b) or 2(b); and
(c) one member appointed pursuant to paragraph 1(c) or 2(c).

(5) A chair may decide to form an enlarged chamber consisting of the chair, two members appointed pursuant to paragraph 1(b) or 2(b), and two members appointed pursuant to paragraph 1(c) or 2(c). A vice-chair shall take part in the proceedings of the enlarged chamber only if the chair is not able to act.

(6) The Appeals Committee shall act in the same composition throughout the proceedings, except in justified cases.

(7)[2] The chairs and vice-chairs shall be appointed for a renewable term of three years. The term of office of members shall be two years and they may be reappointed. Where a chair, vice-chair or member resigns, the vacancy shall be filled by the same method as that laid down in paragraphs 1 to 3.

(8) The President of the Office shall provide the staff necessary for the Appeals Committee to carry out its functions. Such staff, together with the chairs, vice-chairs and members of the Committee, shall be bound to secrecy.

1 Amended by decision of the Administrative Council CA/D 11/22.
2 Modified by decision of the Administrative Council CA/D 3/19.

Article 111a[1]
Functioning of the Appeals Committee

(1) The chair or presiding member of the chamber dealing with the appeal shall take any procedural decisions, including on the application of the summary procedure pursuant to Article 9 of the Implementing Rules.

(2) Subject to Articles 106 to 113 and their Implementing Rules, the Appeals Committee shall establish its own Rules of Procedure, which shall be subject to approval by the competent appointing authority.

Article 112[2]
Independence and impartiality of the Appeals Committee

(1) The chair, vice-chair and members of the Appeals Committee shall act independently and impartially in the execution of their task. They shall neither seek nor accept any instructions.

(2) The chair, vice-chair and members of the Appeals Committee shall not take part in a case in which they have a potential conflict of interest, notably if they have a personal interest in the case, if they have previously been involved as representatives of one of the parties, or if they participated in preparing the decision under appeal.

(3) The chair and vice-chairs shall decide whether a conflict of interest exists. If the conflict of interest concerns the chair or a vice-chair, that person shall not take part in the decision.

Article 113[3]
Complaints to the Administrative Tribunal of the International Labour Organization

(1) A complaint may be filed with the Administrative Tribunal of the International Labour Organization in accordance with the conditions set forth in the Statute and Rules of the Tribunal.

(2) A complaint may be filed with the Tribunal only when the individual decision contested is final and all internal means of redress are either excluded or otherwise exhausted.

(3) A complaint may be not be filed with the Tribunal if the appeal has been closed in accordance with the amicable settlement procedure provided for in the Implementing Rules for Articles 106 to 113.

1 Inserted by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.

TITLE IX
TRANSITIONAL AND FINAL PROVISIONS

Chapter 1
Transitional provisions

Article 114
Reserve status

(1) A permanent employee who is assigned reserve status under Article 46 during a transitional period, the expiry of which shall be the date on which the Administrative Council, acting on a recommendation of the Coordinating Committee of Government Budget Experts, adopts different provisions, or if such provisions have not been adopted during a period of eight years after the date of entry into force of the Convention, at such date as shall be determined by the Administrative Council, shall be entitled to the following benefits:

(a) they shall receive an allowance calculated in accordance with paragraphs 2 to 7;
(b) subject to the payment of their contributions, based on the monthly basic salary appropriate to their grade and step at the time they were assigned reserve status, they shall continue, for a period not exceeding five years, to accumulate rights under the Pension Scheme Regulations;
(c)[1] provided that they are not gainfully employed and provided that they pay their own contributions, calculated on the same basis as mentioned in (b), they shall continue to be affiliated to the social security scheme provided for under Articles 83a, 84, 85 and 86, throughout the period of reserve status.

(2) Subject to paragraph 3, the period for which the permanent employee is entitled to receive the allowance shall be determined by multiplying their length of service before being assigned reserve status by the appropriate percentage for their age as shown in the following table; this period shall, where necessary, be rounded off to the month next below.

1 Modified by decision of the Administrative Council CA/D 2/18.

Age	%	Age	%	Age	%	Age	%
20	18	30	33	40	48	50	63
21	19.5	31	34.5	41	49.5	51	64.5
22	21	32	36	42	51	52	66
23	22.5	33	37.5	43	52.5	53	67.5
24	24	34	39	44	54	54	69
25	25.5	35	40.5	45	55.5	55	70.5
26	27	36	42	46	57	56	72
27	28.5	37	43.5	47	58.5	57	73.5
28	30	38	45	48	60	58	75
29	31.5	39	46.5	49	61.5	59-64	76.5

(3) The entitlement to the allowance shall cease on the day on which the permanent employee reaches sixty-five years of age or on the day on which the permanent employee attains entitlement to the maximum retirement pension, whichever is the earlier.

(4) The allowance paid to the employee shall be:

- for the first three months, a sum equal to the permanent employee's basic monthly salary;
- for the next three months, a sum equal to 85% of the basic monthly salary;
- for the next five years, a sum equal to 70% of the basic monthly salary;
- for the remainder of the period of entitlement, a sum equal to 60% of the basic monthly salary.

(5) The basic monthly salary referred to in paragraph 4 shall be that shown in Annex III of the Service Regulations which is in force on the first day of the month for which the allowance is to be paid.

(6) Under the conditions laid down in these Regulations, an employee who is assigned reserve status is entitled to family allowances, calculated, where appropriate, according to the basic monthly salary as defined in paragraph 5.

(7) Income received by the permanent employee from any new employment during this period shall be deducted from the allowance if that income and the allowance together exceed the total remuneration last received by the permanent employee calculated by reference to the table of salaries applicable on the first day of the month for which the allowance is to be paid.

(8) The allowance and total remuneration last received as referred to in paragraph 7 shall be adjusted in accordance with the salary and allowances adjustments for the place where the permanent employee was last employed.

Article 115[1]

1 Deleted by decision of the Administrative Council CA/D 10/14.

Article 116[1]

Article 117[2]

Article 118[3]

Article 119
Advisory bodies

After the adoption of these Service Regulations and before the establishment of the bodies referred to in Article 2, sub-paragraphs a) and b), the President of the Office may take any decision normally requiring consultation with one of those bodies.

Article 120[4]

Article 120a[5]

Article 121
Staff transferred from the International Patent Institute

The provisions of Chapter III of the Agreement on the integration of the International Patent Institute into the European Patent Office shall be considered as forming an integral part of these Regulations. In cases of conflict they shall prevail over any provision of these Regulations.

Article 122
Staff transferred from the Berlin Annex of the German Patent Office

(1) The provisions of Chapter II of the Agreement between the Government of the Federal Republic of Germany and the European Patent Organisation on the setting up of the Berlin sub-office of the European Patent Office shall be considered as forming an integral part of these Regulations. In cases of conflict they shall prevail over any provision of these Regulations.

(2) Appeals against noncompliance with the provisions of the said Chapter may be made under the same conditions as those against noncompliance with these Regulations.

Article 123[6]

1 Deleted by decision of the Administrative Council CA/D 10/14.
2 Deleted by decision of the Administrative Council CA/D 10/14.
3 Deleted by decision of the Administrative Council CA/D 10/14.
4 Deleted by decision of the Administrative Council CA/D 10/14.
5 Deleted by decision of the Administrative Council CA/D 4/21, entered into force on 1 July 2021. For employees and pensioners who joined the Office up until 30 June 2021, see transitional measures under point V. of CA/D 4/21 or in Part 1a in the Codex.
6 Deleted by decision of the Administrative Council CA/D 19/88.

Chapter 2
Final provisions

Article 124[1]
Implementing Rules

(1) Implementing Rules for giving effect to these Regulations shall be adopted by the Administrative Council acting on a proposal by the President of the Office and after consulting the General Consultative Committee[2].

(2) These Implementing Rules shall be brought to the attention of the staff.

Article 125
Entry into force

These Service Regulations shall enter into force on 20 October 1977.

Done at Munich, 20 October 1977

For the Administrative Council

The President

1 The "Implementing Rules" can be found in Part Ia 1a.
2 Amended by decision of the Administrative Council CA/D 2/14.

ANNEX I

JOB GROUPS AND CORRESPONDING RANGES OF GRADES[1]

Job group	Range of grades	Type of jobs
Job group 1	G16 step 3 – G17 step 3	Vice-president / President of the Boards of Appeal
Job group 2	G15 step 1 – G16 step 4	Principal director / Principal advisor / Board of the Appeal Chair
Job group 3	G13 step 3 – G15 step 4	Director / Senior expert / Senior advisor / Board of Appeal member
Job group 4	G7 step 1 – G13 step 5	Examiner / Administrator / Lawyer / Team manager
Job group 5	G7 step 1 – G10 step 5	Expert / Team manager
Job group 6	G1 step 1 – G9 step 5	Administrative employee / Team manager

1 Amended by decision of the Administrative Council CA/D 12/24.

ANNEX II[1]

COMPETITION PROCEDURES FOR POSTS FOR WHICH THE PRESIDENT OF THE OFFICE IS THE APPOINTING AUTHORITY

Preamble

The purpose of this Annex is to ensure that selection procedures are conducted in a fair, transparent and objective manner, whilst at the same time enabling the Office, in accordance with the requirements of Article 5 Service Regulations, to recruit the brightest talents from the market, foster gender and country diversity and build up a sustainable workforce with the competencies and capabilities required to both meet the Office's current needs and secure its future success.

This Annex lays down the basic rules applicable to recruitment. Further procedural details may be defined by the President of the Office.

1. Form of the competition

1.1. The President of the Office shall decide on the form of the competition, if applicable. Such competition may be conducted, *inter alia*:

(a) by a Selection Board nominated by the President of the Office;
(b) using the services of an external service provider to deal with parts of the process specified by the President of the Office.

1.2. The President of the Office may invite any staff committee to choose an employee to participate in the selection proceedings.

1.3 At the end of the selection proceedings, a list of suitable candidates, together with a reasoned report, shall be submitted to the President of the Office.

2. Notices of competition

2.1. Notices of competition shall be approved by the President of the Office before publication.

2.2. Notices of competition shall specify:

(a) the nature of the competition (i.e. either internal only or internal and external);
(b) the type of duties and tasks involved in the posts to be filled;
(c) the diplomas and other evidence of formal qualifications or the degree of experience required for the posts to be filled;
(d) the knowledge of languages required for the posts to be filled;
(e) the closing date for applications;
(f) required nationality of one of the member states.
(g) any exceptions pursuant to Article 8(3)(a) of the Service Regulations;

1 Amended by decision of the Administrative Council CA/D 12/24.

2.3. The following details shall also be published:

(a) job group and grade;
(b) career path (technical or managerial);
(c) the duration of the appointment.

2.4. Notices shall be published for a period proportional to the duration of the appointment, but in any case for no less than two weeks.

3. Application form

Candidates shall complete a form prescribed by the President of the Office. They may be required to furnish additional documents or information.

4. Selection procedure

4.1. The selection procedure will be defined by the President of the Office so as to allow for a flexible approach taking account of the needs of the service and market constraints.

The following paragraphs apply to competitions under point 1.1(a).

4.2. The President of the Office shall draw up a list of candidates who satisfy the conditions laid down in Article 8(3)(a), (b) and (c) of the Service Regulations and make it available, together with their files to the Selection Board.

4.3. After examining these files, the Selection Board shall draw up a list of candidates who meet the requirements set out in the notice of competition.

4.4. On completion of its proceedings, the Selection Board shall draw up the list of suitable candidates provided for in Article 7 of the Service Regulations.

4.5.[1] The Selection Board shall forward this list, together with a reasoned report and, if applicable, a ranking of the suitable candidates, to the President of the Office.

5. Appointment

5.1. The decision on appointment shall be taken by the President of the Office.

5.2. If the list of suitable candidates contains more names than the number of posts to be filled, the President of the Office may decide to put the names of suitable candidates who have not been appointed on a reserve list for a certain period of time.

If, during this period of time, a vacancy for a post with substantially the same profile arises, the President of the Office may decide to appoint a candidate from the reserve list and need not publish a new notice of competition.

6. Proceedings

The proceedings of the Selection Board shall be secret.

1 Amended by decision of the Administrative Council CA/D 20/23.

ANNEX III

A. BASIC SALARY SCALES

Gross and basic monthly salary scales

BELGIUM

01.01.2025[1]

Currency: EUR					
Grade	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**
17	**26 318,16** *18 053,40*	**26 813,34** *18 341,71*	**27 308,53** *18 630,02*		
16	**24 256,97** *16 853,32*	**24 779,00** *17 157,26*	**25 301,03** *17 461,20*	**25 823,06** *17 765,14*	
15	**22 159,62** *15 632,19*	**22 684,78** *15 937,95*	**23 209,93** *16 243,71*	**23 735,09** *16 549,47*	
14	**20 059,30** *14 409,33*	**20 584,42** *14 715,07*	**21 109,55** *15 020,81*	**21 634,67** *15 326,55*	
13	**17 459,93** *12 895,91*	**17 978,51** *13 197,84*	**18 497,09** *13 499,77*	**19 015,67** *13 801,70*	**19 534,25** *14 103,63*
12	**14 956,94** *11 438,60*	**15 453,15** *11 727,51*	**15 949,37** *12 016,42*	**16 445,59** *12 305,33*	**16 941,80** *12 594,24*
11	**12 590,81** *10 060,98*	**13 058,28** *10 333,15*	**13 525,74** *10 605,32*	**13 993,21** *10 877,49*	**14 460,67** *11 149,66*
10	**10 365,82** *8 741,53*	**10 780,72** *9 003,35*	**11 223,97** *9 265,17*	**11 673,66** *9 526,99*	**12 123,35** *9 788,81*
9	**8 987,46** *7 790,78*	**9 228,91** *7 963,06*	**9 473,94** *8 135,34*	**9 719,97** *8 307,62*	**9 973,61** *8 479,90*
8	**7 827,51** *6 929,53*	**8 054,40** *7 101,79*	**8 283,96** *7 274,05*	**8 513,52** *7 446,31*	**8 750,53** *7 618,57*
7	**6 863,36** *6 172,64*	**7 046,74** *6 318,80*	**7 230,11** *6 464,96*	**7 416,01** *6 611,12*	**7 604,90** *6 757,28*
6	**6 177,25** *5 613,10*	**6 303,26** *5 716,45*	**6 429,27** *5 819,80*	**6 555,28** *5 923,15*	**6 681,29** *6 026,50*
5	**5 563,27** *5 096,34*	**5 685,85** *5 199,69*	**5 808,43** *5 303,04*	**5 931,00** *5 406,39*	**6 053,58** *5 509,74*
4	**4 983,25** *4 594,82*	**5 098,19** *4 694,36*	**5 213,14** *4 793,90*	**5 328,08** *4 893,44*	**5 443,03** *4 992,98*
3	**4 420,74** *4 097,26*	**4 532,76** *4 196,80*	**4 644,77** *4 296,34*	**4 756,78** *4 395,88*	**4 868,79** *4 495,42*
2	**3 875,82** *3 604,13*	**3 983,80** *3 702,52*	**4 091,77** *3 800,91*	**4 199,75** *3 899,30*	**4 308,70** *3 997,69*
1	**3 462,45** *3 227,47*	**3 538,79** *3 297,03*	**3 615,13** *3 366,59*	**3 691,47** *3 436,15*	**3 767,81** *3 505,71*

Gross salaries are shown in bold type, the corresponding net (basic) salary is shown in italics underneath. All amounts are monthly.

1 Decision of the Administrative Council CA/D 15/24.

Gross and basic monthly salary scales

GERMANY

01.01.2025[1]

Currency: EUR					
Grade	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**
17	**29 816,69** *20 449,47*	**30 377,60** *20 776,05*	**30 938,52** *21 102,63*		
16	**27 481,92** *19 090,11*	**28 073,26** *19 434,40*	**28 664,59** *19 778,69*	**29 255,92** *20 122,98*	
15	**25 106,27** *17 706,94*	**25 701,12** *18 053,28*	**26 295,97** *18 399,62*	**26 890,83** *18 745,96*	
14	**22 727,19** *16 321,78*	**23 321,99** *16 668,09*	**23 916,80** *17 014,40*	**24 511,60** *17 360,71*	
13	**19 782,84** *14 607,50*	**20 370,22** *14 949,49*	**20 957,60** *15 291,48*	**21 544,99** *15 633,47*	**22 132,37** *15 975,46*
12	**16 947,62** *12 956,76*	**17 509,70** *13 284,02*	**18 071,78** *13 611,28*	**18 633,87** *13 938,54*	**19 195,95** *14 265,80*
11	**14 267,44** *11 396,29*	**14 796,96** *11 704,59*	**15 326,48** *12 012,89*	**15 855,99** *12 321,19*	**16 385,51** *12 629,49*
10	**11 746,13** *9 901,73*	**12 216,11** *10 198,31*	**12 719,24** *10 494,89*	**13 228,63** *10 791,47*	**13 738,02** *11 088,05*
9	**10 183,20** *8 824,78*	**10 457,05** *9 019,93*	**10 734,61** *9 215,08*	**11 013,69** *9 410,23*	**11 300,99** *9 605,38*
8	**8 868,65** *7 849,23*	**9 125,93** *8 044,33*	**9 385,93** *8 239,43*	**9 646,27** *8 434,53*	**9 914,70** *8 629,63*
7	**7 776,27** *6 991,90*	**7 983,97** *7 157,45*	**8 191,68** *7 323,00*	**8 402,53** *7 488,55*	**8 616,48** *7 654,10*
6	**6 998,82** *6 358,10*	**7 141,57** *6 475,18*	**7 284,32** *6 592,26*	**7 427,07** *6 709,34*	**7 569,82** *6 826,42*
5	**6 303,10** *5 772,75*	**6 441,96** *5 889,83*	**6 580,82** *6 006,91*	**6 719,68** *6 123,99*	**6 858,54** *6 241,07*
4	**5 645,83** *5 204,65*	**5 776,01** *5 317,38*	**5 906,18** *5 430,11*	**6 036,36** *5 542,84*	**6 166,54** *5 655,57*
3	**5 008,45** *4 641,06*	**5 135,30** *4 753,79*	**5 262,16** *4 866,52*	**5 389,01** *4 979,25*	**5 515,86** *5 091,98*
2	**4 390,98** *4 082,48*	**4 513,30** *4 193,94*	**4 635,62** *4 305,40*	**4 757,94** *4 416,86*	**4 881,58** *4 528,32*
1	**3 922,73** *3 655,81*	**4 009,21** *3 734,61*	**4 095,69** *3 813,41*	**4 182,17** *3 892,21*	**4 268,65** *3 971,01*

Gross salaries are shown in bold type, the corresponding net (basic) salary is shown in italics underneath. All amounts are monthly.

1 Decision of the Administrative Council CA/D 15/24.

Gross and basic monthly salary scales

THE NETHERLANDS

01.01.2025[1]

Currency: EUR					
Grade	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**
17	**29 515,54** *20 243,22*	**30 070,80** *20 566,51*	**30 626,07** *20 889,80*		
16	**27 204,29** *18 897,55*	**27 789,63** *19 238,35*	**28 374,97** *19 579,15*	**28 960,31** *19 919,95*	
15	**24 852,59** *17 528,33*	**25 441,45** *17 871,18*	**26 030,31** *18 214,03*	**26 619,17** *18 556,88*	
14	**22 497,55** *16 157,16*	**23 086,35** *16 499,98*	**23 675,16** *16 842,80*	**24 263,97** *17 185,62*	
13	**19 582,85** *14 460,15*	**20 164,31** *14 798,69*	**20 745,77** *15 137,23*	**21 327,23** *15 475,77*	**21 908,68** *15 814,31*
12	**16 776,25** *12 826,07*	**17 332,68** *13 150,04*	**17 889,11** *13 474,01*	**18 445,55** *13 797,98*	**19 001,98** *14 121,95*
11	**14 123,10** *11 281,34*	**14 647,26** *11 586,52*	**15 171,42** *11 891,70*	**15 695,58** *12 196,88*	**16 219,74** *12 502,06*
10	**11 627,28** *9 801,84*	**12 092,51** *10 095,42*	**12 590,47** *10 389,00*	**13 094,71** *10 682,58*	**13 598,94** *10 976,16*
9	**10 080,26** *8 735,77*	**10 351,31** *8 928,94*	**10 626,05** *9 122,11*	**10 902,27** *9 315,28*	**11 186,66** *9 508,45*
8	**8 779,04** *7 770,07*	**9 033,71** *7 963,21*	**9 291,10** *8 156,35*	**9 548,80** *8 349,49*	**9 814,53** *8 542,63*
7	**7 697,68** *6 921,37*	**7 903,27** *7 085,24*	**8 108,87** *7 249,11*	**8 317,56** *7 412,98*	**8 529,33** *7 576,85*
6	**6 928,10** *6 293,97*	**7 069,40** *6 409,86*	**7 210,70** *6 525,75*	**7 352,00** *6 641,64*	**7 493,30** *6 757,53*
5	**6 239,38** *5 714,50*	**6 376,83** *5 830,39*	**6 514,28** *5 946,28*	**6 651,73** *6 062,17*	**6 789,18** *6 178,06*
4	**5 588,79** *5 152,15*	**5 717,66** *5 263,75*	**5 846,53** *5 375,35*	**5 975,40** *5 486,95*	**6 104,27** *5 598,55*
3	**4 957,86** *4 594,25*	**5 083,44** *4 705,85*	**5 209,02** *4 817,45*	**5 334,61** *4 929,05*	**5 460,19** *5 040,65*
2	**4 346,63** *4 041,30*	**4 467,70** *4 151,62*	**4 588,77** *4 261,94*	**4 709,84** *4 372,26*	**4 832,20** *4 482,58*
1	**3 883,12** *3 618,94*	**3 968,72** *3 696,94*	**4 054,32** *3 774,94*	**4 139,92** *3 852,94*	**4 225,52** *3 930,94*

Gross salaries are shown in bold type. the corresponding net (basic) salary is shown in italics underneath. All amounts are monthly.

1 Decision of the Administrative Council CA/D 15/24.

Gross and basic monthly salary scales

AUSTRIA

01.01.2025[1]

Currency: EUR					
Grade	**Step 1**	**Step 2**	**Step 3**	**Step 4**	**Step 5**
17	**28 322,49** *19 426,13*	**28 855,34** *19 736,37*	**29 388,20** *20 046,61*		
16	**26 104,58** *18 134,80*	**26 666,32** *18 461,86*	**27 228,06** *18 788,92*	**27 789,80** *19 115,98*	
15	**23 847,77** *16 820,83*	**24 412,84** *17 149,83*	**24 977,92** *17 478,83*	**25 542,99** *17 807,83*	
14	**21 587,76** *15 504,99*	**22 152,80** *15 833,97*	**22 717,83** *16 162,95*	**23 282,87** *16 491,93*	
13	**18 790,72** *13 876,48*	**19 348,70** *14 201,35*	**19 906,68** *14 526,22*	**20 464,65** *14 851,09*	**21 022,63** *15 175,96*
12	**16 097,42** *12 308,37*	**16 631,38** *12 619,26*	**17 165,35** *12 930,15*	**17 699,32** *13 241,04*	**18 233,29** *13 551,93*
11	**13 551,36** *10 825,99*	**14 054,40** *11 118,87*	**14 557,43** *11 411,75*	**15 060,47** *11 704,63*	**15 563,50** *11 997,51*
10	**11 156,61** *9 406,22*	**11 603,04** *9 687,94*	**12 080,58** *9 969,66*	**12 564,44** *10 251,38*	**13 048,31** *10 533,10*
9	**9 672,51** *8 383,17*	**9 932,54** *8 568,56*	**10 196,21** *8 753,95*	**10 461,19** *8 939,34*	**10 734,13** *9 124,73*
8	**8 423,99** *7 456,44*	**8 668,32** *7 641,80*	**8 915,34** *7 827,16*	**9 162,55** *8 012,52*	**9 417,58** *8 197,88*
7	**7 386,39** *6 642,01*	**7 583,69** *6 799,27*	**7 780,99** *6 956,53*	**7 981,18** *7 113,79*	**8 184,41** *7 271,05*
6	**6 647,93** *6 039,91*	**6 783,52** *6 151,12*	**6 919,11** *6 262,33*	**7 054,70** *6 373,54*	**7 190,30** *6 484,75*
5	**5 987,12** *5 483,86*	**6 119,02** *5 595,07*	**6 250,92** *5 706,28*	**6 382,82** *5 817,49*	**6 514,72** *5 928,70*
4	**5 362,85** *4 944,20*	**5 486,53** *5 051,30*	**5 610,20** *5 158,40*	**5 733,88** *5 265,50*	**5 857,55** *5 372,60*
3	**4 757,44** *4 408,80*	**4 877,95** *4 515,90*	**4 998,47** *4 623,00*	**5 118,99** *4 730,10*	**5 239,51** *4 837,20*
2	**4 170,96** *3 878,18*	**4 287,16** *3 984,06*	**4 403,35** *4 089,94*	**4 519,55** *4 195,82*	**4 636,92** *4 301,70*
1	**3 726,18** *3 472,89*	**3 808,33** *3 547,75*	**3 890,48** *3 622,61*	**3 972,64** *3 697,47*	**4 054,79** *3 772,33*

Gross salaries are shown in bold type, the corresponding net (basic) salary is shown in italics underneath. All amounts are monthly.

1 Decision of the Administrative Council CA/D 15/24.

B. OTHER ELEMENTS OF REMUNERATION MONTHLY SCALES

ANNEX III B

OTHER ELEMENTS OF REMUNERATION MONTHLY SCALES

At 01.01.2025[1]

Country	Belgium	Germany	The Netherlands	Austria
Currency	EUR	EUR	EUR	EUR
1. Dependants' allowance				
1.1 Article 69, paragraph 6	389,68	441,39	436,94	419,30
1.2 Article 69, paragraph 11	779,36	882,78	873,88	838,60
1.3 Article 70	389,68	441,39	436,94	419,30
2. Birth grant				
2.1 Article 85	844,94	957,09	947,43	909,18
3. Language allowance				
3.1 Article 75	141,18	159,92	158,31	151,92
4. Young professional allowance				
4.1 Article 12a conditions of employment for young professionals	104,43	105,87	106,41	104,63

1 Decision of the Administrative Council CA/D 15/24.

ANNEX IV

AMOUNTS OF THE YOUNG CHILD ALLOWANCE AND EDUCATION ALLOWANCE

01.01.2025[1]

Currency: EUR						
Young Child Allowance						
(1)	Young child allowance per month			411		
Education Allowance						
(2)	Ceilings for the reimbursement of direct education costs per academic year		(a)	Munich and The Hague	(b)	Berlin and Vienna
	(i)	Pre-school and primary education:		13 099		18 342
	(ii)	Secondary education:		15 718		20 963
	(iii)	Post-secondary education:		13 099		13 099
	The ceiling taken into account for the duration of the entire academic year is that in force at the beginning of the academic year.					
(3)	Monthly lump sum for indirect education costs paid for a child in preschool, primary education or secondary education			131		131
(4)	Monthly lump sum for indirect education costs paid for a child in post-secondary education					
	(a)	Child living at home:		175		175
	(b)	Child not living at home:		612		612
(5)	Amounts will be reviewed regularly to take into account the evolution of childcare and education costs at the respective places of employment.					

1 Decision of the Administrative Council CA/D 17/24.

ANNEX V

DAILY RATES OF SUBSISTENCE ALLOWANCE AT 1 JANUARY 2025[1]

Table 1: Article 78(5)

Country - Staat - Pays	Rates at Sätze am Taux au 1.1.2024	Rates plus Sätze zzgl. Taux plus +1.90% 1.1.2025	Currency Währung Monnaie
Albania - Albanien - Albanie	199	203	EUR
Andorra - Andorre	273	278	EUR
Armenia - Armenien - Arménie	305	311	EUR
Australia - Australien - Australie	541	551	AUD
Austria - Österreich - Autriche	300	306	EUR
Azerbaijan - Aserbaidschan - Azerbaïdjan	418	426	EUR
Belgium - Belgien - Belgique	346	353	EUR
Bosnia and Herzegovina Bosnien und Herzegowina Bosnie-Herzégovine	194	198	EUR
Bulgaria - Bulgarien - Bulgarie	209	213	EUR
Canada - Kanada	502	512	CAD
Chile - Chili	174 449	177 764	CLP
Croatia - Kroatien - Croatie	218	222	EUR
Cyprus - Zypern - Chypre	224	228	EUR
Czech Republic Tschechische Republik République tchèque	311	317	EUR
Denmark - Dänemark - Danemark	2 729	2 781	DKK
Estonia - Estland - Estonie	290	296	EUR
Finland - Finnland - Finlande	348	355	EUR
Republic of North Macedonia Republik Nordmazedonien République de Macédoine du Nord	234	238	EUR
France - Frankreich (Paris)	390	397	EUR

1 Amended by decision of the Administrative Council CA/D 16/24.

Country - Staat - Pays	Rates at Sätze am Taux au 1.1.2024	Rates plus Sätze zzgl. Taux plus +1.90% 1.1.2025	Currency Währung Monnaie
France - Frankreich (Others / Andere / Autres)	316	322	EUR
Georgia - Georgien - Géorgie	264	269	EUR
Germany - Deutschland - Allemagne	310	316	EUR
Greece - Griechenland - Grèce	291	297	EUR
Hungary - Ungarn - Hongrie	300	306	EUR
Iceland - Island - Islande	227	231	EUR
Ireland - Irland - Irlande	311	317	EUR
Israel - Israël	1 632	1 663	ILS
Italy - Italien - Italie	331	337	EUR
Japan - Japon	42 663	43 474	JPY
Korea - Korea - Corée	494 712	504 112	KRW
Latvia - Lettland - Lettonie	258	263	EUR
Liechtenstein	342	348	CHF
Lithuania - Litauen - Lituanie	254	259	EUR
Luxemburg - Luxembourg	330	336	EUR
Malta - Malte	295	301	EUR
Mexico - Mexiko - Mexique	6 514	6 638	MXN
Republic of Moldova - Republik Moldau - République de Moldavie	218	222	EUR
Monaco	376	383	EUR
Montenegro - Monténégro	324	330	EUR
The Kingdom of the Netherlands - Das Königreich der Niederlande - Le royaume des Pays-Bas	329	335	EUR
New Zealand - Neuseeland - Nouvelle-Zélande	538	548	NZD
Norway - Norwegen - Norvège	2 772	2 825	NOK
Poland - Polen - Pologne	264	269	EUR
Portugal	240	245	EUR
Romania - Rumänien - Roumanie	219	223	EUR
Russian Federation - Russische Föderation - Fédération de Russie	526	536	EUR

Country - Staat - Pays	Rates at Sätze am Taux au 1.1.2024	Rates plus Sätze zzgl. Taux plus +1.90% 1.1.2025	Currency Währung Monnaie
San Marino - San Marino - Saint Marin	310	316	EUR
Serbia - Serbien - Serbie	211	215	EUR
Slovakia - Slowakei - Slovaquie	271	276	EUR
Slovenia - Slowenien - Slovénie	305	311	EUR
Spain - Spanien - Espagne	358	365	EUR
Sweden - Schweden - Suède	3 698	3 768	SEK
Switzerland - Schweiz - Suisse	526	536	CHF
Republic of Türkiye - Republik Türkiye - République de Türkiye	178	181	EUR
Ukraine	339	345	EUR
United Kingdom - Vereinigtes Königreich - Royaume-Uni (London / Londres)	325	331	GBP
United Kingdom - Vereinigtes Königreich - Royaume-Uni (Others / Andere / Autres)	264	269	GBP
United States - Vereinigte Staaten - États-Unis (Washington)	460	469	USD
United States - Vereinigte Staaten - États-Unis (New York)	498	507	USD
United States - Vereinigte Staaten - États-Unis (Others / Andere / Autres)	337	343	USD

Article 78(4) ServRegs allows for a supplement of up to 30% if the cost of accommodation proves to be more than 60% of the daily subsistence allowance rates above.

ANNEX VI

ALLOWANCES UNDER ARTICLE 46 OF THE SERVICE REGULATIONS

- see transitional provisions, Article 114 -

Service Regulations for permanent and other employees, implementing rules, circulars and communiqués

Implementing rules[1]

1 English version revised by decision of the Administrative Council CA/D 18/24 to introduce gender-neutral language The German and French versions remain unchanged.

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IMPLEMENTING RULE FOR ARTICLE 64 OF THE SERVICE REGULATIONS FOR PERMANENT AND OTHER EMPLOYEES OF THE EUROPEAN PATENT OFFICE[1]

PROCEDURE FOR ADJUSTING THE REMUNERATION OF PERMANENT EMPLOYEES OF THE EUROPEAN PATENT OFFICE, APPLICABLE WITH EFFECT FROM 1 JULY 2014

CHAPTER I
GENERAL PROVISIONS

Article 1[2]
Adjustment timetable

(1) The levels of the basic salaries and allowances set out in Annex III to the Service Regulations are adjusted each year, with effect from 1 January, in accordance with the provisions of Chapter II of the present procedure and on the basis of a proposal drawn up by the President of the Office after consulting the General Consultative Committee.

(2) The annual adjustment proposal shall be submitted to the Administrative Council for approval at its meeting in December of the year preceding its application. An estimate of the cost of the proposed adjustments, together with the scales concerned, is submitted to the Budget and Finance Committee at its autumn meeting, if they are available in time.

(3) Before submitting the proposal, the President obtains confirmation from independent experts, appointed by the President, that it is consistent with the provisions of this rule.

(4)[3] The amounts of the young child allowance and the education allowance set out in Annex IV to the Service Regulations, the daily subsistence allowance set out in Annex V to the Service Regulations and the kilometric allowance referred to in Article 79 of the Service Regulations are adjusted by applying the arithmetic average rate of annual salary adjustment for Austria, Germany and the Netherlands to those in place.

1 Revised by decision of the Administrative Council CA/D 3/14.
2 Amended by decision of the Administrative Council CA/D 4/20.
3 Amended by decision of the Administrative Council CA/D 4/21.

CHAPTER II
ANNUAL ADJUSTMENT OF THE BASIC SALARIES AND ALLOWANCES SET OUT IN ANNEX III TO THE SERVICE REGULATIONS

Article 2[1]
Annual adjustment of the reference scale: Belgium

(1) With effect from 1 January, the basic salary scale and allowance amounts set out in Annex III to the Service Regulations and applicable for Belgium are adjusted by a percentage corresponding to the Harmonised Index of Consumer Prices calculated for that country, corrected by the index for remuneration trends in the central government services of the reference countries ("specific indicator"), calculated in accordance with the procedure described in Article 3.

(2) This percentage adjustment is applied to the basic salary scale and allowance amounts in force as at 1 January of the current year.

Article 3
Calculating the specific indicator

(1) The central government services of the following eight countries are taken as a reference: Belgium, France, Germany, Italy, Luxembourg, the Netherlands, Spain and the United Kingdom.

(2)[2] The specific indicator is obtained by performing the following operations:

(a) Establishing correspondence between the grades at each of the reference national administrations and those at the EPO.

(b) Calculating, for each of these grades and for each of two marital situations ("unmarried" and "married with two dependent children"), the gross maximum and minimum monthly remuneration as at 1 July of the calculation year and as at 1 July of the previous year. This calculation takes account of all elements making up the remuneration paid to national civil servants. Any one-off payments made during the year are converted into corresponding monthly amounts.

(c) Calculating, for each of these grades and for each of the above marital situations, the net maximum and minimum monthly remuneration as at the two comparison dates. This is done by deducting, from gross remuneration, compulsory social security contributions (sickness, death, invalidity and long-term care insurance, pension scheme) and the income tax levied by the central government authority, calculated without taking non-automatic personal allowances into account.

(d) Calculating, for each of these grades and for each of the above marital situations, the real-term trend indices for maximum and minimum

1 Amended by decision of the Administrative Council CA/D 4/20.
2 Amended by decision of the Administrative Council CA/D 4/20.

remuneration. This is done by deflating the net remuneration trend indices by the national Harmonised Index of Consumer Prices over the 12-month period preceding 1 July of the calculation year.

(e) Determining, for each of these grades and for each of the above marital situations, the average real-term trend indices per grade. This is done by calculating the arithmetical mean of the real-term trend indices for maximum and minimum remuneration calculated under (d).

(f) Determining an average trend index per grade. This is done by applying to the average real-term trend indices, calculated under (e), weightings of 0.3 and 0.7 respectively for the marital situations "unmarried" and "married with two dependent children".

(g) Determining an average trend index per reference country. This is done by weighting the grade indices, obtained under (f), by the grade distribution of staff in the central government services of the country concerned.

(h) Determining the average overall trend index (or "specific indicator"). This is done by applying the following coefficients to the country indices obtained under (g):

Belgium:	7.1%
France:	16.0%
Germany:	21.1%
Italy:	14.3%
Luxembourg:	5.3%
Netherlands:	8.5%
Spain:	11.7%
United Kingdom:	16.0%

(3) The national remuneration data used for the calculations described in paragraph 2 are those supplied by the national governments for the European Communities and the Co-ordinated Organisations.

Article 4[1]
Determining the scales for countries other than Belgium

To obtain the basic salary scale and allowance amounts applicable in a member state other than Belgium, the new basic salary scale and allowance amounts applicable in Belgium are multiplied by the purchasing power parity coefficient relating to the country concerned and calculated with reference to Brussels in accordance with the provisions of Chapter III.

1 Amended by decision of the Administrative Council CA/D 4/20.

CHAPTER III
CONSUMER PRICE INDICES AND COEFFICIENTS OF PURCHASING POWER PARITY[1]

Article 5

(1) The Harmonised Index of Consumer Prices for Belgium referred to in Article 2 and the purchasing power parity coefficients referred to in Article 4 are calculated by the International Service for Remunerations and Pensions in collaboration with the Statistical Office of the European Communities in accordance with the methodology approved by the decision-making bodies of the European Union after consulting national statisticians.

(2)[2] The national price indices referred to in Article 3(2)(d) correspond to the Harmonised Index of Consumer Prices calculated by the Statistical Office of the European Communities.

CHAPTER IV
PROVISIONAL ADJUSTMENTS AND POSSIBLE CORRECTIONS

Article 6
Provisional adjustments

(1) Should the civil services of some reference countries not forward the information required under Article 3(3) in time for the President to submit the adjustment proposals in accordance with Articles 2 to 4, the President submits to the Administrative Council a provisional adjustment proposal based on the information available to him.

(2)[3] As soon as they are able to do so, the President submits to the Administrative Council a definitive adjustment proposal in accordance with Articles 2 to 4. This definitive adjustment takes effect on 1 January of the year following that during which it is calculated.

Article 7
Data corrections

(1)[4] If there was a mistake in the data used to calculate an adjustment, the President, with the agreement of the independent experts referred to in Article 1(3), may retroactively modify the salary scales in force as appropriate and submit them to the next meeting of the Administrative Council for approval.

(2) Paragraph (1) shall be applicable to payments made to staff in the administrative statuses provided for in Article 39 of the Service Regulations and to

1 Amended by decision of the Administrative Council CA/D 4/20.
2 Amended by decision of the Administrative Council CA/D 4/20.
3 Amended by decision of the Administrative Council CA/D 4/20.
4 Amended by decision of the Administrative Council CA/D 4/20.

recipients of EPO pension benefits.

Article 8[1]
Nominal guarantee

In the event that the annual adjustment leads to a basic salary lower than that currently in force, this negative adjustment shall be set against future adjustments, and salaries and allowances shall be maintained at their level.

Article 9[2]
Sustainability clause

(1) The overall growth in the basic salary mass resulting from the salary adjustment procedure described under Chapter II shall be limited to that indexed to annual Eurozone inflation +0.2% as at 1 July of the calculation year. To that end, the growth in the basic salary mass is calculated by reference to the increase by site, weighted to reflect the distribution of employees per site as at 1 July of the calculation year.

(2) If the weighted increase is lower than the limit, each scale and allowance shall be adjusted as per the procedure described in Articles 2 to 4.

(3) If the weighted increase exceeds the limit, the salary adjustment percentage of all basic salary scales and allowances (scales referred to in Article 4 and the scale for Belgium) shall be reduced in the same proportion.

(4) If the weighted increase is lower than the limit, any remainder of the previous annual adjustment resulting from the calculated adjustment and the limit set out in paragraph 1 shall be included in the current adjustment up to the limit.

(5) The updated scales for Germany, the Netherlands, Austria and Belgium shall replace the salary and allowance figures shown in Annexes III to VI to the Service Regulations.

Article 10[3]
Periodical settlement

(1) Any positive adjustment resulting from the application of Article 9 and carried forward after three annual salary adjustments will be paid out to employees as a lump sum in proportion to the basic salaries and allowances they received over the three-year period.

(2) The proposal for such a periodical settlement shall be submitted to the Administrative Council for approval at its meeting in December of the year in question.

1 Amended by decision of the Administrative Council CA/D 4/20.
2 Inserted by decision of the Administrative Council CA/D 4/20.
3 Inserted by decision of the Administrative Council CA/D 4/20.

Article 11[1]
Exception clause

(1) If there was a decrease in the real gross domestic product of the Contracting States the previous year and the result of the adjustment according to Articles 2 to 4 and Article 9 is positive, the adjustment shall be delayed. The delayed adjustment shall not be taken into account for the purpose of Article 9 above. The reference values of the gross domestic product are those calculated by the Statistical Office of the European Communities for the EPC Contracting States in the European Union, and by the competent national authorities for the other Contracting States, available at the time of calculation. The decrease in the gross domestic product and the consequences in terms of the date of application of the adjustment are defined in accordance with the following table:

Gross domestic product	Date of payment of the adjustment
-1% to -3%	1 October of the adjustment year
Below -3%	-

(2) When the application of paragraph (1) has the effect that the value of the calculations according to Articles 2 to 4 and Article 9 does not result in an adjustment of remunerations and pensions, this value shall form the basis of the calculation of a future adjustment once the cumulative increase of gross domestic product in the Contracting States, measured from the year where paragraph (1) was applied, becomes positive.

CHAPTER V
EVALUATION OF THE PROCEDURE AND SUBSEQUENT MODIFICATIONS

Article 12[2]

(1) After the present procedure has been in operation for six years, the President will undertake a full review of its results. This review will take account of the EPO's recruitment needs, the competitiveness of its salaries, the overall financial situation of the Organisation, in particular in view of its long-term sustainability, and any difficulties encountered in applying the procedure. The impact of the procedure, including the sustainability clause, on purchasing power will also be examined.

(2) In the light of this review, the President will make a report to the Administrative Council, and if appropriate submit proposals for change, including in order to secure the Organisation's long-term sustainability and correct a differential in purchasing power resulting from the application of Chapter IV.

1 Amended by decision of the Administrative Council CA/D 4/20.
2 Amended by decision of the Administrative Council CA/D 4/20.

However, until such changes are approved by the Administrative Council the present procedure will remain in force.

CHAPTER VI
DATE OF ENTRY INTO FORCE AND APPLICATION OF THE PROCEDURE

Article 13[1]

(1) The present procedure will for the first time apply with effect from 1 January 2021; subsequently, the Administrative Council shall decide on its implementation every year on the basis of an assessment of whether the prevailing circumstances allow the procedure to apply.

(2) The present procedure will be applied in the light of Articles 33(2)(b) and 46 of the European Patent Convention.

This decision shall enter into force on 1 July 2020.[2]

Done at Munich, 30 June 2020

For the Administrative Council

The Chairman
Josef KRATOCHVÍL

1 Amended by decision of the Administrative Council CA/D 4/20.

2 Transitional measure
Any positive adjustment that would have resulted from the application of the new procedure to the period from 1 July 2020 to 31 December 2020 will be paid out to employees and pensioners as a compensatory lump sum in proportion to the basic salaries, pensions and allowances they received over that period.

DECISION OF THE ADMINISTRATIVE COUNCIL OF 6 JULY 1978 ON SUBSTITUTION FOR THE PRESIDENT OF THE EUROPEAN PATENT OFFICE UNDER ARTICLE 10, PARAGRAPH 3, SECOND SENTENCE, OF THE EUROPEAN PATENT CONVENTION[1]

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,
HAVING REGARD to the European Patent Convention, and in particular Article 10, paragraph 3, second sentence,
HAS DECIDED AS FOLLOWS:

Article 1

The President of the European Patent Office shall designate the Vice-President or Vice-Presidents who are charged with replacing him in every matter or series of matters while he is absent or indisposed.
As a general rule, the President shall designate each Vice-President for matters which fall within the sphere of operations of the latter.

Article 2

This decision shall enter into force on 6 July 1978. It shall be published in the Official Journal of the European Patent Office.
Done at Bordeaux, 6 July 1978.

For the Administrative Council
The Chairman

1 Decision of the Administrative Council CA/D 11/78.

RULES ON DEPUTISING FOR THE PRESIDENT[1]

Since 19 July 1978, deputisation for the President has been subject to the following provisions:
"The substitute for the President in matters which have an external impact and would normally receive his personal attention shall be the longest-serving Vice-President Directorate-General 2, 4 or 5 who is present in Munich at the relevant time; if there is no difference in length of service, the substitute shall be appointed on the basis of age.
Where these matters require substitution at The Hague, the Vice-President Directorate- General 1 shall act as the deputy.
The Vice-President Directorate-General 3 shall deputise for the President as Chairman of the Presidium of the Boards of Appeal (Rule 10(2) of the European Patent Convention).
The Vice-Presidents shall also act on the President's behalf in matters falling within their respective spheres of operations.
Differences of opinion shall be settled by a majority vote of all the Vice-Presidents (including the representative of DG 3).
Munich, 18 July 1978
J.B. van Benthem"

1 The President endorsed these arrangements in October 1997 and confirmed that they are to continue.

TERMS OF REFERENCE OF THE MANAGEMENT ADVISORY COMMITTEE

1. **The Management Advisory Committee (MAC)**

   Under Article 10(1) of the European Patent Convention (EPC), the President manages the European Patent Office, and is responsible to the Administrative Council for the Office's activities.

   Pursuant to Article 10(3) EPC, the President is assisted by a number of Vice-Presidents.

   The MAC is the President's advisory body on the Office's management.

2. **Composition of the MAC**

   The MAC is presided over by the President.

   Members of the MAC are appointed by the President from among the Office's senior management.

   Upon the President's decision, other managers or staff members may also be invited, on an ad hoc basis, to participate in the MAC's discussion on a particular agenda item.

3. **Tasks of the MAC**

   The MAC assists the President in performing his functions and exercising his powers under the EPC, in particular in ensuring the effectiveness of the Office's activities, the implementation of the Office's strategy and the long-term sustainability of its operations.

   The President may seek the MAC's advice when contemplating strategic or other important decisions.

   To facilitate the performance of its management advisory role, the MAC may propose to the President the creation of other bodies within the Office, or the mandating of existing ones, to study specific topics and propose a particular course of action.

4. **Contributions of MAC members**

   MAC members are expected to actively contribute to the deliberations in MAC meetings, put forward proposals and report on significant developments. While they represent their specific area of responsibility, they are also expected to have due regard to the collective nature of the MAC's functioning and the multi-departmental nature of the issues to be discussed.

5. **Organisation of MAC meetings**

   MAC meetings are held on a regular basis and are convoked by the President's Office upon the President's decision.

The President's Office draws up the draft agenda for each MAC meeting. Any document relating to an agenda item is to be submitted in due time before the meeting. The President's Office circulates the draft agenda as well as related documents to the MAC members for comments and suggestions.

At the beginning of each meeting, the President adopts the final agenda.

The draft minutes of MAC meetings, together with a summary report, are drawn up by the President's Office and are approved by the President.

6. Communication

The composition of the MAC is published on the Office's website and intranet.

The summary reports of MAC meetings are published on the Office's intranet.

Done at Munich, 1 July 2021

The President of the European Patent Office
António Campinos

The President Munich, 29 April 2009

GUIDELINES ON BUSINESS EXPENDITURE FOR SOCIAL PURPOSES AND REPRESENTATION

Preamble

Expenditure on representation, entertainment, catering, gifts and staff motivation should be envisaged only where it will benefit the Office. Exceptions to this rule could damage the Office's reputation and cause it pecuniary loss. Line managers and staff are therefore encouraged to apply high standards of governance in line with the principles of economy and sound financial management.

Before a decision is taken to launch an event which will generate expenditure, the competent authorising officer must be contacted and the necessary funds reserved in the Office's financial system (FIPS). PD Finance will provide a budgetary overview of where such expenditure will be booked.

In these Guidelines the term "budget holder" means all senior officers, and in the first line the head of a Directorate-General, responsible for Budget preparation and execution in the sense of CA/69/08 on new budget dynamic and Annex X to the yearly Budget.

These Guidelines apply in accordance with the Financial Regulations of the European Patent Organisation and with the Service Regulations for employees of the European Patent Office, in particular Articles 76(1) and (3) and 82.

Article 1
Scope

(1) These guidelines apply to all expenditure generated by:
   (a) representation and entertainment
   (b) other catering (business breakfast, lunch, dinner, cocktails, snacks, biscuits, drinks etc.)
   (c) gifts (including promotional products and giveaways)
   (d) financial participation in events, celebrations, social and travel packages and accommodation packages
   (e) expenditure under the directors' motivation budget.

(2) These guidelines cover all activities under the Office's auspices, including training, technical co-operation, the European Patent Academy, fairs, exhibitions, and conferences for external delegates.

(3) These guidelines do not apply to subsidies to the Amicale and similar bodies.

(4) These guidelines apply without prejudice to Articles 82 and 87 of the Service Regulations.

Article 2
Representation and entertainment

(1) Expenditure on representation and entertainment is confined to activities aimed at non-European Patent Office persons or bodies and clearly driven by the purpose of representing the Office. Allowable activities must always be appropriate to the status, obligations and reputation of the Office.

(2) Meals and all forms of catering in the context of representation activities are governed by the provisions of Article 3, as far as circumstances allow.

(3) Expenditure generated by other types of business contact - commercial contracts and contract preparation, works visits, etc. - does not pertain to the public representation of the Office and may be covered only under Articles 3 and 4.

Article 3
Catering

(1) Expenditure generated by catering may be for either internal or external purposes. Internal purposes include meetings of internal Office committees and working parties, other sizeable or lengthy meetings, and training events. External purposes include catering at conferences and events with external participants. The venue is irrelevant.

(2) Invitations to meals for internal purposes must be authorised by the principal authorising officer (exceptions: training according to Circular No. 280 and motivation according to Article 6). The principal authorising officer may delegate such power. Invitations to meals for external purposes fall within the normal competence of the authorising officer.

(3) The maximum rate per person for a meal is EUR 60.00 (EUR 20.00 in EPO canteens); exceptions may be granted only if approved by the principal authorising officer. Tips may be reimbursed in addition, up to a maximum of 10% of the bill.

(4) As far as circumstances allow, a list of participants should be included with the request for reimbursement.

(5) The following applies in special cases:
   (a) Where catering costs are included in a package, the above rates should be used as a guide.
   (b) The above rates should also be used as a guide for catering costs incurred in connection with meetings of the Administrative Council and its committees.

Article 4
Gifts

(1) The Office may bear the cost of official presents, small gifts and giveaways for non-European Patent Office persons or bodies. The purchasing policy for gifts is the responsibility of Principal Directorate Communication, which must ensure that due account is taken of the Office's corporate identity and that purchases are cost-effective. The individual value of a gift should be modest. Exceptions may be granted only by the Principal Director Communication.

Article 5
Social events

(1) The cost of major Office-wide social gatherings, and of comparable events as decided by employees of grade A6 and higher, may be borne in whole or in part by the Office, subject to approval by the budget holder.

(2) Money may also be spent in other situations of a social nature, on a case-bycase basis (e.g. for sick colleagues, wreaths and obituary notices for staff members who die in service), subject to approval by the budget holder.

(3) Staff completing 25 years in service with the Office receive a certificate signed by the President, EUR 600.00 and two days' special leave.

(4) Staff completing 40 years in service with the Office receive a certificate signed by the President, EUR 800.00 and two days' special leave.

(5) On retirement, staff receive a letter of thanks from the President and EUR 600.00 towards the cost of a leaving party upon presentation of receipts. For the same purpose and under the same conditions, the President may decide another ceiling to be applied to senior managers (grade A6-A7).

Article 6
Motivation budget

(1) The managers' motivation budget is set at EUR 30.00 per budget post plus any Article 3010 Euro-contract staff position as on 1 January of each year. The budget is managed by the authorising officer and may not be exceeded. Events must be held in the fiscal year, i.e. before 31 December. Requests for payment may be submitted only by the manager, must be accompanied by originals of all bills and should be received no later than 10 January of the following year.

(2) The motivation budget may be used, for instance, for invitations to meals, departmental drinks, excursions, or gifts for a directorate (e.g. a coffee machine). The recipients must be staff members of the unit in question or, at the discretion of the manager, temporary staff.

(3) The budget is for use by directors and heads of units only. However, it may be used by principal directors if the department is not headed by such a manager. Managers are accountable for the use of funds and may be asked to justify such use.

(4) A list of participants is not required for such events.

Article 7
Invoices

(1) Invoices for any of the above expenditure must fulfil the mandatory invoice requirements set out in the relevant EU directive. Upon request, Principal Directorate Finance shall clarify the mandatory requirements for invoice processing.

(2) With regard to VAT reimbursements, only original invoices addressed to the Office and stating the full address will be accepted for reimbursement of expenditure in accordance with these guidelines. When the bill is paid by the employee, the request for reimbursement with the original invoice attached (addressed to the Office) must be posted in FIPS on the employee vendor account. When the original invoice of the company (e.g. a restaurant) is sent direct to the Office, payment must be initiated in line with regular vendor invoices.

(3) In the case of exceptions to the above, written justification must be provided.

Article 8
Rates

All rates mentioned in these guidelines are net and shall be reviewed regularly in parallel with the preparation of the budget in order to at least compensate for inflation.

Article 9
Reimbursement

Business expenses for social purposes and representation are reimbursed in accordance with the Financial Regulations and with the Service Regulations, in particular Article 76(1), i.e. "a employee shall be entitled (...) to reimbursement of expenses incurred by him (...) in the course of or in connection with the performance of his duties", and Article 76(3), i.e. "unless otherwise provided in [the Service] Regulations, requests for reimbursement (...) must be submitted within six months of the date on which expenditure was incurred. Requests submitted after the deadline provided in this paragraph or otherwise in [the Service] Regulations are reimbursable only in a duly substantiated case of force majeure."

Article 10
Implementation

(1) Simple forms and advice will be provided to help staff comply with these guidelines.

(2) These guidelines replace the Guidelines on expenditure for special occasions, catering and other entertainment (2 March 1994), Circular No. 275, the Vice-President DG 4's instructions on the directors' motivation budget (11 April 2005) and relevant local instructions.

(3) These guidelines enter into force on 1 May 2009.

Alison Brimelow
President

IMPLEMENTING RULE TO ARTICLE 26b SERVREGS[1]

Article 1
Subject-matter and field of application of complementary agreements relating to occupational health, safety and ergonomics

Any complementary agreements relating to occupational health, safety and ergonomics and concluded with one or more contracting states under Articles 20(2) and 25 of the Protocol on Privileges and Immunities of the Organisation shall cover the organisation of inspections of Office premises and control of working conditions on those premises by external bodies recognised as competent by the authorities of the contracting states on whose territory the permanent employees of the Office are deployed.
These complementary agreements shall apply neither to the social and medical aspects of working conditions governed by the provisions of the Service Regulations and any other provisions relating to the Office's social-security, pension and health insurance schemes, nor to the regulation of working hours governed by the provisions of the Service Regulations and any other provisions relating to working hours.

Article 2[2]
Inspections and controls

The external bodies referred to in Article 1 shall perform inspections of premises and controls of working conditions for compliance with the provisions of national legislation at the place of employment concerned, within the limits laid down in the complementary agreements concluded with the states concerned and subject to the provisions of the European Patent Convention, the Protocol on Privileges and Immunities of the Organisation, the seat agreements concluded by the Organisation, and the Service Regulations and other rules applicable to permanent employees and other employees. They shall submit their inspection reports to Office management. The President of the Office shall take appropriate measures in the light of these reports.

Article 3
Informing the Central and Local Occupational Health, Safety and Ergonomics Committees

The President of the Office shall forward each inspection report to the Occupational Health, Safety and Ergonomics Committee concerned. In addition, the external bodies performing inspections and controls shall annually inform the President of the Office of the results of their activities. The President of the Office shall forward the annual reports to the Central Occupational Health, Safety and Ergonomics Committee.

1 Decision of the Administrative Council CA/D 23/07.
2 Modified by decision of the Administrative Council CA/D 2/18.

Article 4
Opinion

(1) The Local Occupational Health, Safety and Ergonomics Committee shall present to the President of the Office an opinion on the relevant reports of the external body and on the measures envisaged by the President of the Office in the light of such reports. The Central Occupational Health, Safety and Ergonomics Committee shall receive a copy of this opinion.

(2) The Central Committee may present to the President of the Office comments on such reports or on the opinion given by the Local Occupational Health, Safety and Ergonomics Committee.

Article 5
Decision of the President of the Office

(1) In the light of the opinions given by the Central or a Local Occupational Health, Safety and Ergonomics Committee, the President of the Office shall decide on measures appropriate to ensure health protection, safety and ergonomics on the Office's premises.

(2) In urgent cases, the President of the Office shall take the precautionary measures necessary to ensure health protection, safety and ergonomics on the Office's premises.

Article 6
Entry into force

The present Implementing Rule shall enter into force on 2 April 2007.

IMPLEMENTING RULE TO ARTICLE 38a SERVREGS

Article 1
Composition of the Central and Local Occupational Health, Safety and Ergonomics Committees

(1)[1] The Central Committee shall consist of:

- the Vice-President for Administration, or his representative, who shall act as chairman;
- a member appointed by the President of the Office;
- the occupational health physicians in Munich and The Hague;
- the occupational health and safety experts in Munich and The Hague;
- two members of each Local Committee, one of whom shall be appointed by the Local Staff Committee.

(2)[2] The Local Committees shall consist of:

- the person appointed by the President of the Office as site manager, or their representative, who shall act as chair;
- a member appointed by the site manager;
- the occupational health physician;
- a member of the infrastructure department;
- a member of the personnel department (human resources or welfare service);
- the occupational health and safety expert;
- two members appointed by the Central Staff Committee.

(3) An alternate shall be appointed for each member.

(4) The full and alternate members shall be appointed annually as at 1 January and their appointment shall be made public.

(5) Other experts shall be authorised to attend meetings for questions on which their opinion is required. These experts shall not be entitled to vote.

Article 2
Rules of procedure

The Central and Local Occupational Health, Safety and Ergonomics Committees shall adopt rules of procedure laying down how they function and organise their work. The Committees shall adopt their rules of procedure at their first meeting.

1 Amended by decision of the Administrative Council CA/D 22/09.
2 Modified by decision of the Administrative Council CA/D 3/19.

Article 3
Confidentiality

The members of the Central and Local Committees shall observe discretion in respect of confidential information of which they become aware in the course of their duties.

Article 4
Entry into force

The present Implementing Rule shall enter into force on 2 April 2007.

27 November 1997

DIRECTIVE OF THE PRESIDENT CONCERNING ACTIVITIES OF THE AMICALE AND CLUBS

1. Dealings with national authorities

In dealings with national authorities, the Amicale and the clubs are not entitled to present themselves as acting on behalf of the European Patent Office. In particular, in such dealings, they are not entitled to invoke in the name of the European Patent Office the privileges and immunities enjoyed by the European Patent Organisation.

2. Involvement of third parties

In any dealings with contractors or other external third parties, the Amicale or the clubs must take steps (eg appropriate letterhead) to make clear that the Amicale or the clubs are organising the project in question. For implementation of the project, third parties must be given the name of a responsible contact person of the Amicale or the clubs.

3. Publicity work

Any Amicale or club activity which addresses the public and as such involves publicity work must be agreed beforehand with Public Relations Directorate 5.0.1. Publicity work includes in particular the involvement of public authorities or institutions, ministries, consulates, politicians, media or industrial enterprises.

Ingo Kober
President

AGREEMENT BETWEEN THE PRESIDENT OF THE OFFICE AND THE BRANCHES OF THE AMICALE[1]

This agreement defines the role and status of the branches of the Amicale, their activities and the resources made available to them by the Office.

A. Role and status of the branches of the Amicale

The role of the branches of the Amicale shall be to promote, encourage and propose cultural, recreational and sporting activities for all Office staff and their families.

Hence the activities of the branches of the Amicale constitute an especially significant factor in the integration of employees coming from differing geographical and cultural backgrounds.

They also help to promote exchange between places of employment and between Office staff and the local environment.

The branches of the Amicale shall be considered to be bodies of a social nature, set up with the consent of the Office. One branch of the Amicale may be set up in each place of employment.

The consent of the Office shall be subject to the submission of rules governing the election of members entrusted with responsibility for managing Amicale activities (Amicale Bureaux/Executive Committees).

An Amicale branch shall be held to have been constituted when its Bureau/Executive Committee has been elected in accordance with the above-mentioned rules.

Once they have been set up, the Bureaux/Executive Committees shall bear sole responsibility for organising activities and managing the resources made available to the Amicale branches. The Office shall liaise directly with them on matters relating to the Amicale branches. The chairpersons of the Amicale branches, constituting an "Inter-Amicale", shall act on behalf of all the Amicale branches on issues of common interest.

The duties undertaken by the members of the Bureaux/Executive Committees under the terms of their mandate shall be held to be part of the services they are obliged to provide, within the limits of the time allocated for that purpose. The employees in question shall suffer no disadvantage from the exercise of such duties.

The provisions of the Protocol on Privileges and Immunities shall be applicable to Amicale activities only in so far as such activities are organised with the direct involvement of the Office and to the extent that said provisions apply to such activities. The Office shall retain sole responsibility for applying those provisions.

1 See Gazette 09/99

When taking part in Amicale activities, Office staff and their families shall be covered by a liability insurance taken out by the Office. The Bureaux/Executive Committees shall inform those involved of the existence of such cover.

B. Activities of the Amicale branches

The Bureaux/Executive Committees shall at their own discretion define the activities which they intend to organise or subsidise.
Some of those activities may be defined and/or organised jointly with the Office, particularly "general activities" which are aimed at a wide public and may involve more than one place of employment.
An annual programme shall be drawn up, in co-operation with the Office administration, to define the jointly organised general activities. Such general activities may include:

- Christmas parties
- receptions for new staff and their families
- organisation of trips to festivities such as Fasching or the Oktoberfest in Munich or the North Sea Jazz Festival in The Hague
- inter-Office events or Office participation in events organised by other companies or organisations
- happy hours (Munich)
- summer parties
- clubs fairs
- "Scorpions day" (Berlin)

C. Resources

Time

Each Bureau/Executive Committee shall have a time quota to cover standard administrative activities (budget management, relations with the clubs, organisation of election etc.) and some "general" activities organised by the Amicale. This time quota shall be as follows:

• Munich	0.65	staff member per year
• The Hague	0.65	staff member per year
• Berlin	0.4	staff member per year
• Vienna	0.3	staff member per year
total	2.0	staff members per year

and shall include 0.6 staff member per year for "general" activities.
The Bureau/Executive Committee for each place of employment shall divide its time quota up freely among its members, save that the quota allowed for any one member must not amount to more than 20% of that member's working time. This percentage shall be reviewed on a yearly basis (calendar year).

In addition to this time quota, extra free time may be granted by the Office for activities organised jointly by the Amicale branches and the Office. As far as possible, this allowance shall be granted within the framework of the annual programme of activities drawn up in co-operation with the Office.
This extra free time must not take the time used by any staff member for Amicale activities to over 40% of that staff member's working time. This percentage shall be reviewed on a yearly basis (calendar year).

Finance

The Office shall grant the branches of the Amicale a total annual subsidy amounting to no more than the global sum specified in Article 3023 of the Budget.
This total subsidy shall be shared out among the branches of the Amicale according to the following formula:
S x = T * f / number of sites + T * (1 - f) *
(budget posts at site x) / (budget posts for the Office)

where:	S x	=	subsidy for site x
	T	=	total subsidy
	f	=	a figure between 0 and 1, set at 0.3 barring a request for modification from the Inter-Amicale.

In addition to this direct subsidy, the Office may contribute to the financing of activities arranged jointly with the Amicale branches. This contribution shall normally be granted only as a supplement to financing already covered by the Amicale branches and shall amount to no more than twice the level of such financing.
Should the Amicale at any place of employment cease to exist, the Office subsidy that it would have received shall be allocated as decided by the Inter-Amicale and in the interests of all staff.

Facilities

The Office shall make the following premises available to each branch of the Amicale:

- an office the same size as a standard director's office to allow Bureau/Executive Committee meetings to be held.
- an adjoining secretary's office, equipped with the office systems assigned to Office secretaries.

Other rooms or areas may be made available, depending on the facilities of the particular place of employment.

Access to reprography, mail distribution and internal communication services shall normally be granted to the Amicale Bureaux/Executive Committees.
The above provisions shall apply from 1 July 1999. For the second half of 1999, the time quota and financial resources granted shall be equal to their annual amount reduced by the amount utilised in the first half of 1999.
Munich, 15 June 1999

IMPLEMENTING RULE TO ARTICLE 65(3) OF THE SERVICE REGULATIONS FOR PERMANENT AND OTHER EMPLOYEES OF THE EUROPEAN PATENT OFFICE[1]

I. Provisions governing participation in the salary savings plan

A. Participants

(1)[2] Participation in the salary savings plan established by Article 65(3) of the Service Regulations ("the Plan") shall be compulsory for:

(a) employees and members of the Boards of Appeal and the Enlarged Board of Appeal, within the meaning of Article 1(2), (4) and (7) of the Service Regulations, and

(b) principal directors of the Office, within the meaning of Article 1(6) of the Service Regulations,

who take up their duties on or after 1 January 2009.

(2) Participation in the Plan shall be compulsory for the President and vice-presidents and for other contract staff at the Office, within the meaning of Article 1(5) and (7) of the Service Regulations, who take up their duties on or after 1 January 2009 only to the extent expressly provided for in their contracts and terms of employment.

(3)[3] [The employees referred to in paragraphs 1 and 2 may also, at their express request, make additional voluntary contributions.][4]

(4) Those who participate in the Plan, on whatever basis, are hereinafter referred to as "participants".

B. Rate of contribution

(1)[5] The rates for compulsory [and voluntary][6] contributions, and the salary to which they relate, shall be established by the President of the Office, on the basis of an actuarial study, after consultation of the General Consultative Committee. The rate for compulsory contributions shall be equal to the difference between the contribution to the pension scheme applicable to employees already in service on 31 December 2008 and that payable under the New Pension Scheme Regulations.

1 Decision of the Administrative Council CA/D 13/08.
2 Amended by decision of the Administrative Council CA/D 2/18.
3 Modified by decision of the Administrative Council CA/D 3/19.
4 Provisions in square brackets suspended by decision of the Administrative Council CA/D 3/19.
5 Modified by decision of the Administrative Council CA/D 3/19.
6 Provisions in square brackets suspended by decision of the Administrative Council CA/D 3/19.

(2)[1] One-third of the rate for compulsory contributions shall be charged to the employee, two-thirds to the Office.

[Additional voluntary contributions shall be borne entirely by the employee.][2]

(3) Contributions shall be deducted monthly from the participant's salary.

C. Individual salary savings accounts

(1) An individual salary savings account (hereinafter referred to as an "individual account"), in euro, shall be opened for each participant.

(2) The individual account shall be credited on a monthly basis with the sum of the contributions paid.

(3) The sums credited to the individual account shall be invested by the Office, in accordance with a predefined strategy.

(4) The Office shall offer participants a maximum of three investment strategies, after consultation of the General Consultative Committee[3].

The Office shall establish the default investment strategy which is to apply for the first six months of participation.

Thereafter, each participant may choose a different investment strategy from among those offered by the Office, and may change it once per calendar year. The President of the Office shall lay down the procedure for communicating this choice. In the absence of any such communication, the default investment strategy shall apply.

The Office shall bear no responsibility for application of the strategies chosen by each participant or of the default strategy.

(5) Each year, participants shall receive a statement of their individual account.

D. Settlement of amounts owed

(1) On termination of service, participants shall be entitled to payment of the balance of their individual account as a lump sum corresponding to the contributions paid into the account, plus or minus investment returns.

(2) In the event of the participant's death, this entitlement shall pass to the estate.

(3) The lump sum shall be paid out as final salary. Procedure for this payment shall be laid down by the President of the Office, after consultation of the General Consultative Committee[4].

1 Modified by decision of the Administrative Council CA/D 3/19.
2 Provisions in square brackets suspended by decision of the Administrative Council CA/D 3/19.
3 Amended by decision of the Administrative Council CA/D 2/14.
4 Amended by decision of the Administrative Council CA/D 2/14.

II. Provisions governing operation of the Plan

A. Plan assets

(1) The term "Plan assets" shall denote the total of the contributions paid into each individual account as well as the corresponding investment returns.

(2) The Plan assets shall be the property of the European Patent Organisation, within the meaning of Article 4 of the Protocol on Privileges and Immunities of the European Patent Organisation.

(3) The Plan assets shall be a special class of asset of the European Patent Organisation designed solely to settle the amounts owed under this implementing rule. They shall be subject to separate management and accounting and may not be combined with any other assets of the Organisation.

B. Plan implementation

(1) The Office shall make provision for the administration of individual accounts and for asset management, and shall bear the cost thereof. It may outsource some or all of the duties involved.

(2) The President of the Office shall, after consulting the General Consultative Committee[1], establish a mechanism for supervising Plan administration and management, and shall take all such action as is necessary to apply this implementing rule.

1 Amended by decision of the Administrative Council CA/D 2/14.

DIRECTIVE ON AN IN-HOUSE SUPERVISORY COMMITTEE FOR SALARY SAVINGS PLAN INVESTMENT MANAGEMENT AND ADMINISTRATION

1. Establishment of an in-house committee

An in-house committee will be established to supervise investment management and administration for the salary savings plan.

2. Composition of the in-house committee

(1) The in-house committee will be presided over by a chairperson appointed by the President of the Office for a renewable term of three years. The President will also appoint a deputy chairperson for a likewise renewable term of three years. In addition to these two external members, the committee will further be composed of the following internal members:

(a) two Office employees appointed by the President of the Office;
(b) two Office employees appointed by the Central Staff Committee.

(2) Alternate members will be appointed in accordance with the same procedure for members mentioned under 1(a) and 1(b).

(3) The in-house committee may call in experts or advisers on a regular or occasional basis.

(4) Members and alternate members of the in-house committee will be appointed for a minimum duration of one year, tacitly renewable for the same minimum duration. A member or alternate member whose service terminates for one of the reasons set out in Article 50 ServRegs or who resigns from their office will be replaced for the remaining term of their office in accordance with the procedure under 1(a) and 1(b).

3. Meetings

(1) Meetings of the in-house committee will be convened by the chairperson.

(2) Each member of the in-house committee will have a vote. The chairperson and deputy chairperson will vote only on procedural matters.

(3) The in-house committee will hold two ordinary meetings per year; it will also convene for an extraordinary meeting on the initiative of the chairperson or of half its members.

4. Duties of the in-house committee

The in-house committee will supervise investment management and administration for the salary savings plan. It will advise the President of the Office and may issue recommendations.

It may call upon the salary savings plan investment manager and administrator to send representatives to in-house committee meetings.

It will discuss investment performance and future investment strategy together with the investment manager and may request the salary savings plan administrator to adapt their services to the Office's needs.

5. Entry into force

This directive enters into force on 1 May 2022.

António Campinos
President of the European Patent Office

IMPLEMENTING RULES FOR ARTICLES 106 TO 113 OF THE SERVICE REGULATIONS FOR PERMANENT AND OTHER EMPLOYEES OF THE EUROPEAN PATENT OFFICE[1]

Section I
Individual decisions taken upon request

Article 1[2]
Acknowledgement of receipt

The person requesting an individual decision to be taken shall be informed of the date of receipt of the request.

Section II
Review procedure

Article 2
Form of the request for review

(1)[3]The request for review shall be dated and submitted in writing in one of the three official languages of the Office. It shall identify the individual decision challenged.

(2)The person requesting the review shall be informed of the date of receipt of the request.

(3)The date used to determine whether the time limits have been complied with shall be that of dispatch of the request for review. In the event of doubt about the date of dispatch, the date used shall be that of receipt by the competent appointing authority.

Article 3[4]
Procedure

(1)Only employees who, by virtue of the duties they perform, legitimately need to be involved may take part in the review. The person requesting the review of an individual decision may be assisted by an employee of their choice throughout the review procedure. All such persons shall be bound to secrecy.

(2)Where the individual decision challenged was taken by the President of the Office, they shall ensure that the individual decision challenged is reviewed at the appropriate level within the same hierarchical line as that from which

1 Decision of the Administrative Council CA/D 9/12. This decision shall enter into force on 1 January 2013. The transitional measures laid down in Articles 14 to 19 of CA/D 8/12 shall apply to the present decision.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.
4 Amended by decision of the Administrative Council CA/D 7/17.

the individual decision originates. Such level shall at the minimum be job group 3.

(3) For individual decisions taken by the Administrative Council, Article 18 of its Rules of Procedure shall apply.

Section III
Internal appeal procedure

Article 4
Form of the internal appeal

(1) [1]The internal appeal shall be lodged in electronic form in one of the three official languages of the Office.

(2) The internal appeal shall bear the date and the signature of the appellant. If the appellant decides to be represented, they shall submit a signed power of attorney.

(3) [2]The internal appeal shall identify the individual decision challenged and include:
   (a) a summary of the grounds for appeal;
   (b) the relief claimed.

(4) The date used to determine whether the time limits have been complied with shall be that of dispatch of the internal appeal. In the event of doubt about the date of dispatch, the date used shall be that of receipt by the Appeals Committee.

Article 5[3]
Registration of the internal appeal

(1) Upon receipt of an internal appeal, the Appeals Committee shall inform the competent appointing authority without delay.

(2) The Appeals Committee shall register the internal appeal under an appeal number and inform the appellant accordingly within one month from the date of receipt of the appeal.

(3) Upon filing an appeal, the appellant shall pay a registration fee of EUR 200, which the Appeals Committee may recommend be refunded, in part or in full, if the appeal is successful.

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.

Article 6[1]
Amicable settlement

(1) Once the appeal has been registered, the chair or presiding member of the chamber dealing with the appeal may invite the parties to seek an amicable settlement of the matter giving rise to the appeal.

(2) The chair or presiding member of the chamber dealing with the appeal shall encourage and actively facilitate an amicable settlement. They may also act as a mediator.

(3) The proceedings before the Appeals Committee may be suspended for a limited time period during the settlement process.

(4) The settlement discussions shall be confidential and without prejudice to the parties' arguments in the contentious proceedings. No written or oral communication and no offer or concession made in the framework of the attempt to secure a settlement may be referred to or relied on in the contentious proceedings.

(5) If the parties have agreed to a settlement, the settlement is binding on both parties and the appeal shall be regarded as closed.

(6) [2]The Appeals Committee is competent to deal with claims for the validity, application or execution of a settlement concluded at any stage of the dispute irrespective of whether it was involved in the conclusion of such settlement. It may make recommendations to the competent appointing authority that further internal means of redress are excluded for a challenge of the settlement.

Article 7[3]
Internal appeal procedure

(1) The procedure before the Appeals Committee shall be governed by fair-trial principles, including the right to be heard within a reasonable time.

(2) Only those persons who, by virtue of the duties they perform, legitimately need to be involved may take part in the internal appeal procedure. Such persons shall be bound to secrecy.

(3) The Appeals Committee may at any time request from either party any information which it deems necessary and appropriate for the examination of the case.

(4) It shall in particular invite the parties to file their observations and may set time limits for doing so. The number of submissions shall be limited to two for each party, including the internal appeal. The chair or presiding member of the chamber dealing with the appeal may, of their own motion or on the application of either party, order the submission of a further written statement and set the time limit for such submission.

1 Inserted by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 12/24.
3 Amended by decision of the Administrative Council CA/D 7/17.

(5) The parties shall be informed of any document or new fact presented during the proceedings.

(6) The parties may be represented or assisted by persons of their choice.

(7) The Committee's proceedings shall take place in camera.

(8) If a document introduced into the proceedings is available only in a language which is not one of the three official languages, the appellant may submit a reasoned request for its translation into one of those languages. The chair or presiding member of the chamber dealing with the appeal shall decide on such requests.

(9) Any costs incurred by the appellant in the course of the appeal proceedings, in particular fees payable to a person chosen from outside the Organisation to represent or assist them, shall be borne by them, unless the competent appointing authority decides otherwise.

Article 8[1]
Hearings

(1) The chair or presiding member of the chamber dealing with the appeal may decide to hold hearings, for example at the request of a party. In particular, the Appeals Committee may hold a hearing where the written documentation is not sufficient or where a hearing might be decisive for forming an opinion.

(2) The parties have a right to propose witnesses. The Appeals Committee may hear such witnesses as it considers necessary.

(3) Participants in a hearing may use any of the three official languages of the Office.

Article 9
Summary procedure

(1)[2] If the Appeals Committee considers an appeal to be manifestly irreceivable or manifestly unfounded, it may decide to apply a summary procedure without any hearing. Such decision shall be adopted by a majority.

(2)[3] An internal appeal may be considered to be manifestly irreceivable inter alia if it:

(a) is not submitted by a person referred to in Article 106, paragraph 1, of the Service Regulations or rightful claimant on their behalf;

(b) does not challenge an individual decision within the meaning of Article 108 of the Service Regulations;

(c) is submitted outside the time limits foreseen in Article 110, paragraph 1, of the Service Regulations;

1 Inserted by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.

(d) challenges a decision having the authority of res judicata or a final decision within the meaning of Article 110, paragraph 4, of the Service Regulations;
(e) challenges an individual decision which should have been subject to the review procedure pursuant to Article 109, paragraph 1, of the Service Regulations;
(f) challenges a decision which cannot be challenged through the internal appeal procedure pursuant to Article 110, paragraph 2, of the Service Regulations.

(3) In such a case, the Appeals Committee may deliver an opinion limited to the receivability of the appeal.

Article 9a[1]
Abusive internal appeals

Where the Appeals Committee determines that a party has manifestly abused the proceedings before it, it may recommend to the competent appointing authority to award procedural costs and/or damages against that party.

Article 9b[2]
Test-case procedure

(1) The chair or presiding member of the chamber dealing with the appeal may, of their own motion or at the request of a party and in accordance with the Rules of Procedure of the Appeals Committee, initiate a test-case procedure.

(2) Before initiating a test-case procedure, the Appeals Committee shall first seek the views of the parties on the suitability of processing the appeal in accordance with that procedure.

(3) The opinion adopted by the Appeals Committee at the end of the test-case procedure shall constitute its opinion pursuant to Article 13 and shall apply to every appeal in which a similar issue has been raised.

(4) Information about the initiation of a test-case procedure and the adoption of the resulting opinion shall be published by the Appeals Committee.

Article 10[3]
Consolidation of internal appeals

The chair or presiding member of the chamber dealing with the appeal may decide to:

(a) consolidate several appeals filed by different appellants concerning the same subject-matter and deal with them in a single hearing and opinion;

(b) consolidate several appeals filed by the same appellant and deal with them in a single hearing and in a single opinion.

1 Inserted by decision of the Administrative Council CA/D 7/17.
2 Inserted by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.

Article 11[1]
Suspension of internal appeal proceedings

(1) Either party may at any time submit a written and reasoned request for the suspension of the internal appeal proceedings. The other party must be given the opportunity to comment on such a request.

(2) The chair or presiding member of the chamber dealing with the appeal shall decide on the request, in the light of the reasons given in the request and any comments received from the other party.

Article 12
Withdrawal of internal appeals

An appeal may be withdrawn at any time during the proceedings, by written notification to the Appeals Committee. The Appeals Committee shall immediately inform the competent appointing authority of any such withdrawal.

Article 13
Opinion of the Appeals Committee

(1) The Appeals Committee's reasoned opinion to be delivered to the competent appointing authority shall include:
   (a) a description of the subject of the internal appeal;
   (b) a statement of the facts and a description of the proceedings;
   (c) the main arguments of the parties;
   (d) the Committee's considerations;
   (e) the Committee's recommendation;
   (f) any dissenting views of any members of the Committee.

(2)[2] The opinion of the Appeals Committee shall be adopted by a majority, and shall be signed by the chair or presiding member of the chamber dealing with the appeal.

(3)[3] When the Appeals Committee sits in an enlarged composition pursuant to Article 111, paragraph 5, of the Service Regulations, the chair or presiding member of the chamber dealing with the appeal shall not have the right to vote save on procedural questions or in case of equality of votes.

Article 14
Final decision at the conclusion of internal appeal proceedings[4]

(1) The final decision on the internal appeal taken by the competent appointing authority shall be notified to the appellant together with a copy of the opinion of the Appeals Committee.

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Amended by decision of the Administrative Council CA/D 7/17.
4 Amended by decision of the Administrative Council CA/D 7/17.

(2) Abstracts from the final decision and from the opinion of the Appeals Committee shall be published in-house by the Appeals Committee, with due regard to the confidentiality of the internal appeal proceedings.

Section IV
Complaints to the Administrative Tribunal of the International Labour Organization

Article 15
Translation of documents

(1) Appellants may seek assistance in the translation of a reasonable volume of documents for proceedings before the Administrative Tribunal of the International Labour Organization.

(2) The President of the Office shall decide on such requests.

IMPLEMENTING RULES FOR ARTICLES 21, 21A AND 93 PARAGRAPH 2, OF THE SERVICE REGULATIONS FOR PERMANENT AND OTHER EMPLOYEES OF THE EUROPEAN PATENT OFFICE

COMPLIANCE AND ACCOUNTABILITY

Part I
Introduction[1]

The European Patent Office (hereinafter referred to as "the Office") is committed to developing and fostering a culture of integrity, ethics, and accountability, and to preventing, detecting and addressing misconduct and abuse.
The Office ensures compliance with its rules through an Ethics and Compliance function which maintains and upholds the Office's compliance programme, providing outreach to all stakeholders, and raising their awareness on matters relating to integrity. This function provides secure, reliable and accessible means for submitting allegations or indications of fraud, harassment, and other misconduct, and proactively addresses risks of fraud, corruption, abuse and other non-compliance.
All employees of the Office are responsible for their conduct in the performance of their duties, in accordance with the provisions of the Service Regulations and in the spirit of the values of the Organisation. Former employees continue to be bound by these principles and by specific obligations, as provided for in the Service Regulations. Other persons undertaking work in or on behalf of the Office are bound to similar standards by their contractual obligations.
In cases of possible misconduct, an investigative process may be carried out to establish the underlying facts on the basis of which the appointing authority can come to a reasoned assessment regarding the initiation of disciplinary proceedings or other corrective measures.
The guidelines in these Implementing Rules set out the procedure for the conduct of investigations under Article 21a of the Service Regulations and the associated rights and obligations. They establish the principles and procedures to be applied with respect to the initiation, conduct and outcome of this fact-finding procedure, and ensure the transparency of the process. They also serve as a guide for investigators in the conduct of such investigations, and lay down rules about the investigative process and the roles, rights and obligations of the participants.

1 Amended by decision of the Administrative Council CA/D 20/23.

Part II
General provisions

Article 1
Field of application

(1) These Implementing Rules shall apply to all persons covered by Article 1 of the Service Regulations, including former employees of the Office.

(2) The procedure laid down in these Implementing Rules, and the associated rights and obligations, shall also apply to all persons who are not covered by paragraph 1 but who undertake work in or on behalf of the Office. Where direct application to such persons is not possible, the Office will seek to apply by contractual agreement the rights and obligations set out in these Implementing Rules.

Article 2
Definitions

For the purposes of the procedure established in these Implementing Rules, the following definitions shall apply:

(1) An "allegation" is an assertion of misconduct based on one or more specific and identifiable incidents.

(2) An "indication of misconduct" is a set of data or information suggesting the prima facie likelihood of an occurrence of misconduct, based on one or more specific and identifiable incidents.

(3) A "complainant" is any person raising an allegation.

(4) A "subject" is any person who is alleged or indicated to have engaged in misconduct.

(5) "Investigative process" means the totality of the fact-finding procedures within the scope of these Implementing Rules, including the receipt and recording of complaints, the initial review, the preliminary evaluation, the investigation and the report on findings.

(6) "Parties" means all persons involved in the investigative process as complainants, subjects or witnesses.

(7) "Evidence" is any type of proof which may reasonably be expected to establish or disprove a fact material to the case.

(8) "Retaliation" means any direct or indirect detrimental action threatened or taken because an individual engaged in an activity protected by these Implementing Rules.

(9) "Investigative unit" means the unit in charge of investigating allegations or indications of misconduct, as referred to in Article 21, paragraph 2, Article 21a and Article 93, paragraph 2(a) of the Service Regulations.

Article 3
Principles in the conduct of an investigative process

(1) Investigators shall demonstrate respect for the parties in an investigative process at all times.

(2) The investigative process shall be carried out objectively, independently, impartially and free of undue interference, in accordance with the principles of due process and proportionality and any applicable provisions. No one shall unduly influence the investigative unit in any way.

(3) Investigators shall seek to obtain and take into account all evidence which may reasonably be expected to have a bearing on the case.

(4) In the conduct of the investigative process, due respect shall be given, where applicable, to the proper functioning and independence of the Boards of Appeal and Enlarged Board of Appeal as provided for in the European Patent Convention.

(5) In the event of a real or apparent conflict of interest, the assigned investigators shall inform the line manager overseeing the investigative unit, who shall decide whether to replace the investigator or investigators concerned for this particular investigative process. This decision shall be documented in writing, and shall be part of the record of the investigative process.

(6) Alleged misconduct by or an unresolved conflict of interest of an investigator shall be reported to the line manager overseeing the investigative unit or to the President.

Article 4
Confidentiality

(1) In order to protect the integrity of the investigative process and the parties involved in it, all information about the investigative process or gained in connection with it shall be treated with strict confidentiality. For the purposes of these Implementing Rules, this means that information shall be shared on a need-to-know basis only, in accordance with the applicable regulations and general principles of law.

(2) The confidentiality of the fact-finding procedure shall be observed by the members of the investigative unit and by all others involved in the investigative process.

(3) In order to protect the integrity of the investigative process and the parties involved in it, notifications made by the investigative unit to any party or parties involved in the process shall not, in general, include the names of any of the other parties involved.

(4) Investigators shall maintain and keep secure an adequate record of the investigative process and the information collected.

(5) The unauthorised disclosure, whether by intent or negligence, of information pertaining to the investigative process or the identity of any person involved in the investigative process may constitute misconduct.

(6) The investigative unit shall inform all parties involved of the strict obligation to maintain the confidentiality of the process.

(7) The investigative unit shall inform the President of the Office of any ongoing investigative processes in cases involving a threat to the operations or governance of the Office or a considerable risk to the reputation of the Office.

(8) In order to explain their absence from work, parties may inform their line manager that they are to be interviewed by the investigative unit, but they may not disclose any information related to the investigative process or the allegation or indication of misconduct under review.

(9) All parties involved in the investigative process shall continue to be bound by the obligations in this Article after they have left the service or the contractual relationship has ended.

(10) Nothing in this Article shall be construed to prevent any persons covered in Article 1 of these Implementing Rules from availing themselves of their rights to seek legal remedy as provided for under Title VIII of the Service Regulations.

Article 5
Reporting misconduct

(1) Allegations or indications of misconduct shall be reported to the investigative unit direct.

(2) Where it establishes that a person who has in good faith reported an allegation or indication of misconduct is at risk of being subjected to some form of retaliation, the investigative unit shall take all reasonable measures to protect that person.

(3) The investigative unit shall periodically inform complainants about the progress of the investigation, unless it considers that providing such information would jeopardise the process, the interests of the Office or the rights of parties involved in the process.

(4) The raising of allegations of misconduct which are knowingly false or which are made with a reckless disregard as to whether they are true or false is prohibited and constitutes misconduct. The same applies to the giving of testimony or evidence.

(5) Complainants shall, however, at all stages of the investigative process inform the investigative unit of further facts or circumstances which may be relevant for the investigative process as soon as they become aware of them.

Article 6
Presumption of innocence and the right to defend oneself

(1) Subjects shall be presumed to be innocent throughout the investigative process and until such time as their appointing authority has taken a decision on whether misconduct has occurred.

(2) They shall have the right to defend themselves against the allegations or indications of misconduct. This includes the right to present any evidence, including the right to propose witnesses, in their favour.

Article 7
Duty to co-operate

(1) All persons covered by these Implementing Rules shall co-operate in the investigative process, in accordance with the applicable provisions.

(2) This obligation includes being available for meetings with the investigators, providing truthfully, and to the best of one's ability and knowledge, all information which may reasonably be expected to have a bearing on the case, and answering all pertinent questions. It also includes the requirement to provide access to all relevant records belonging or pertaining to the Office, or stored in the Office or on devices belonging to or provided by the Office, including those stored electronically.

(3) A person covered by these Implementing Rules may, however, remain silent on grounds relating to self-incrimination or to incriminating a spouse, civil union partner, or a relative in the first degree.

(4) The destruction or manipulation of evidence, or attempts to destroy or manipulate it, the interference with or intimidation of witnesses or potential witnesses and the misleading of investigators by any party are prohibited and may constitute misconduct, as may failure to co-operate without legal justification.

(5) If any party to an investigative process claims that they are unable to attend any interview as provided for in Article 17 of these Implementing Rules, or to otherwise fully co-operate in the investigative process, for medical reasons, the investigative unit may request that their ability to understand and answer questions in the context of an administrative procedure be independently assessed in accordance with Article 26, paragraph 2, of the Service Regulations.

Article 8
Advice and support during the investigative process

(1) Complainants and subjects may at any time seek advice and support from a colleague of their choice, who may be a staff representative, who is not connected to the matter. In this case, the complainant or subject shall inform the investigative unit accordingly.

(2) All parties may also seek advice from:
   (i) members of their immediate family;
   (ii) health professionals; and
   (iii) at no cost to the Office, an external lawyer of their choice who is not connected to the matter directly or indirectly.

   In these cases, they do not have to inform the investigative unit.

(3) A person is not eligible to provide advice and support if doing so might expose them to the risk of a conflict of interest.

(4) The sharing of information pertaining to the investigative process and to the allegation or indication of misconduct under review is permitted for the purposes of seeking advice and support under this Article.

(5) Where such advice is sought, the persons consulted shall keep the matter confidential. The investigative unit may ask the persons consulted to sign a declaration of confidentiality.

(6) Any party sharing information under this Article must take, and upon request demonstrate, all reasonable measures to ensure the confidentiality of the fact-finding procedure.

Part III
The investigative process

Article 9
Overview

(1) The investigative process is an administrative fact-finding procedure. The purpose of an investigation is to establish whether there is sufficient evidence to support an allegation or indication of misconduct, and if so, to identify the person or persons responsible.

(2) The investigative process begins with the registration of the case and is comprised of three stages: an initial review, a preliminary evaluation and a formal investigation.

(3) Once the investigative process has been completed, if the investigative unit concludes that there is sufficient evidence to support the allegation or indication of misconduct, the case is referred to the respective appointing authority for decision.

(4) Under normal circumstances, the investigative process shall be completed within twelve months after receipt of the allegation. In cases of an allegation of harassment, the investigative process shall, under normal circumstances, be completed within six months after receipt of the allegations.

Article 10
Registration and initial review

(1) Allegations or indications of misconduct are registered as such if they meet the following cumulative criteria. They must:
   (i) fall within the field of application as laid down in Article 1 of these Implementing Rules;
   (ii) comply with Article 2, paragraph 2, of these Implementing Rules;
   (iii) not be obviously immaterial;
   (iv) not be clearly of a vexatious nature;
   (v) not be the subject of a final decision or judgment under the rules and regulations of the Organisation; and
   (vi) not be time-barred pursuant to Article 19 of these Implementing Rules.

(2) If an allegation or indication meets the above criteria, the investigative unit shall carry out an initial review to assess whether it falls within its remit and whether the alleged conduct, if proven, would amount to misconduct. It shall not include any fact-finding, or any assessment of the credibility of the allegation. It shall not prejudice the outcome of any future investigations.

(3) The investigative unit may also initiate an investigative process of its own motion, based on indications of misconduct obtained in a proactive compliance review or investigative process.

(4) At the end of the initial review, the investigative unit may:
   (i) close the investigative process if it finds that the allegations or indications of misconduct do not fall within its remit or that the alleged conduct, if proven, would not amount to misconduct, and if appropriate refer the matter to other units within the Office;
   (ii) exceptionally defer the process pending clarification of key facts which are outside the sphere of influence of the Office; or
   (iii) initiate a preliminary evaluation as defined in Article 11 of these Implementing Rules.

(5) The investigative unit shall inform the complainant in writing of its choice under paragraph 4. If the subject was informed of the investigative process, the investigative unit shall also inform them in writing. If the President was informed of the allegation or indication of misconduct, the investigative unit shall also inform them of this choice.

(6) Under normal circumstances, the initial review shall be completed no later than three months from the date of receipt of the allegation or indication of misconduct.

Article 11
Preliminary evaluation

(1) The preliminary evaluation involves collecting, preserving and securing basic evidence and assessing this evidence to determine whether an investigation into the allegation or indication of misconduct is warranted.

(2) To that end, the investigative unit shall:
   (i) establish the basic facts and secure basic evidence,
   (ii) evaluate the credibility, materiality and verifiability of the complaint, and
   (iii) identify any inconsistencies or outstanding questions.

(3) At the end of the preliminary evaluation, the investigative unit may:
   (i) close the investigative process if, on the balance of probability, the allegation or indication of misconduct is without merit, is not supported by the facts, or clearly cannot be substantiated by the evidence obtainable. If new or previously unknown relevant evidence becomes available, the investigative unit may re-open the process;
   (ii) refer the matter to other units within the Office;
   (iii) defer the investigative process pending further clarification of key facts which are outside of the sphere of influence of the Office; or

(iv) initiate an investigation as defined in Article 12 of these Implementing Rules.

(4) In the case of paragraph 3(i) to (iii), the investigative unit shall inform the complainant in writing of its choice. If the President was informed of the allegation or indication of misconduct, the investigative unit shall also inform them of this choice.

(5) The subject shall not normally be notified of the findings unless they - or any other person - were made aware of the fact that allegations or indications of misconduct against them were being evaluated. Other parties involved may be informed about the outcome if such information is deemed necessary to protect the reputation of the subject, or at the specific request of the subject.

(6) Under normal circumstances, the preliminary evaluation shall be completed no later than four months after the date of receipt of the allegation or indication of misconduct.

(7) Where an investigation as defined in Article 12 of these Implementing Rules is initiated against a member of the Boards of Appeal or Enlarged Board of Appeal, the investigative unit shall inform the President of the Boards of Appeal.

Article 12
Investigation

(1) The investigation shall include the collection and analysis of all available pertinent information and evidence.

(2) Investigations shall be conducted promptly so as to preserve relevant information and documentation and prevent the continuation of the alleged misconduct or the occurrence of further incidents.

(3) At any time during the investigation, the investigative unit may exceptionally decide to defer the process pending further clarification of key facts which are outside the sphere of influence of the Office.

Article 13
Use of outside investigators

(1) The investigative unit may at any time request assistance from other units. These other units shall be bound by the same procedural rules and obligations as the investigative unit.

(2) If the circumstances so warrant, the investigative unit may decide to assign external experts to assist in or to carry out the investigative process in part or in full. External investigators shall be bound by the same procedural rules as the investigative unit and shall work under the authority of the investigative unit.

Article 14
Protective and interim measures

(1) At any time during the investigative process, the investigative unit may recommend that the President of the Office take interim measures to safeguard the investigation or to protect a party to the investigation.

(2) When deciding on such measures, due account shall be taken of the legitimate concerns and interests of all the parties and the Organisation, the nature of the harm or potential harm to the complainant or witness, the degree to which delay may worsen the harm done or result in the harm becoming irreparable, and the seriousness of the matter. Such measures shall be temporary and may include, but are not limited to, suspension, restriction of access to Office premises, documents or resources, or transfer or re-assignment of one or more of the parties.

(3) Where interim measures are taken, the duration of the measures, which shall not exceed six months, shall be laid down in the decision. If, after the end of this period, the President of the Office considers that the circumstances requiring the interim measures still persist, further interim measures may be taken, up to a total duration of eighteen months.

(4) If interim measures are taken in accordance with this Article against a person appointed by the Administrative Council, the President shall immediately inform the chair of the Administrative Council.

(5) If interim measures are in force at the conclusion of the investigative process, these measures shall be lifted no later than two months following the conclusion of the process, unless the appointing authority, within this two-month period, decides otherwise due to the circumstances of the matter, in particular the seriousness of the allegations or indications of misconduct and the potential risk to persons or to the interests of the Organisation.

(6) Interim measures shall not be of a punitive nature, nor shall they prejudice the outcome of the investigative process in any way.

(7) The investigative unit may decide, for reasons of protection of the parties, not to disclose the name of a complainant or witness. In such a case, a finding of misconduct cannot be based directly on testimony provided by this complainant or witness, and must be independently substantiated by other evidence.

Article 15
Notification of allegations or indications of misconduct

(1) The investigative unit shall inform the subject of the allegations or indications of misconduct, and of their rights and obligations under these Implementing Rules, in writing as soon as it is practicable to do so without jeopardising the investigation or the rights of the complainant or witnesses. Such notification shall occur no later than at the beginning of the interview as the subject in accordance with Article 17 of these Implementing Rules.

(2) Line managers and other parties shall not normally be informed of the allegations or indications of misconduct. They may be contacted and ques-

tioned by the investigative unit in accordance with Article 17 of these Implementing Rules.

(3) If the investigative process is closed without the issuance of a final report pursuant to Article 18 of these Implementing Rules, the subject shall only be informed of the investigative process or the closure of the investigative process if they have a specific legal interest, for example if they were informed of the allegations or indications of misconduct.

(4) At the specific request of the subject, the investigative unit shall inform other parties about the outcome of the investigative process, insofar as this is in the legitimate interests of the subject.

Article 16
Gathering of evidence

(1) The investigative unit may seek and collect all relevant evidence, including physical and electronic documents and records, physical items, witness statements and other pertinent information in accordance with the applicable provisions.

(2) The investigative unit may, in accordance with the applicable rules and procedures, secure, access and search all resources and documents which may reasonably be expected to have a bearing on the case, including desks, offices, computers, mobile electronic devices, physical and electronic documents and data, and physical and electronic mail, and review the records of all communications effected or made possible through means and devices owned or provided by the Office.

(3) In determining the means and aims of obtaining evidence, due account shall be taken of the principles of proportionality and data protection, and the evidence sought shall be obtained by the least intrusive means possible.

(4) Whenever the office space of a person working in or for the Office is accessed or searched, an observer who is not in any way connected to the matter under investigation shall be present.

(5) The investigative unit shall document all its evidence-gathering activities.

(6) With regard to accessing evidence located outside the Office premises, the investigative unit must abide by all the applicable provisions of local law. In such cases, it may seek assistance from the relevant local authorities.

Article 17
Interviews

(1) At any time in the investigative process, the investigative unit may, at its discretion, interview persons who may have information relevant to the investigation.

(2) A person may be interviewed on more than one occasion during the course of an investigation, and shall be obliged to co-operate pursuant to Article 7 above.

(3) Invitations to interview shall be issued in writing. The invitation shall inform

the interviewee of their rights and obligations under these Implementing Rules. It shall be sent sufficiently in advance of the interview to allow the interviewee time for preparation, unless the circumstances of the case suggest that the integrity of the investigative process, or any parties thereto, may be put at risk in case of such advance invitation.

(4) Interviews shall be conducted in one of the official languages of the European Patent Organisation, where possible in the preferred official language of the interviewee. Interviewees may reply in their preferred official language.

(5) If, during the course of an interview with a witness or complainant, it becomes apparent that the interviewee may become the subject of the investigative process or of a new investigative process, the interview shall be stopped, or suspended until such time as the interviewee has been duly notified of any allegations or indications of misconduct against them pursuant to Article 16 of these Implementing Rules.

(6) Notwithstanding the obligation to attend an interview at the invitation of the investigative unit, interviewees may remain silent on grounds relating to self-incrimination or to incriminating a spouse, civil union partner, or a relative in the first degree.

(7) Interviews shall be conducted by at least two investigators.

(8) The complainant and the subject may be accompanied during interviews by an Office employee of their choice as an observer. This employee may be neither a member of the investigative unit nor in any way connected to the matter under investigation, and must be readily available to attend.

(9) Any observer accompanying an interviewee shall maintain the confidentiality of the process and shall not interrupt or interfere in the interview or investigative process. The presence of such an accompanying person shall not relieve the person being interviewed of their obligation to give their full co-operation.

(10) If an observer interrupts or interferes in an interview, the investigators may, after due warning, exclude the observer from the interview and proceed without them.

(11) During or after the interview, a record of the interview shall be prepared in the language or languages in which the interview was held. The interviewee shall be given a reasonable opportunity to review the record. The record shall be signed by all interview participants. Alternatively, the investigators may prepare an audio recording of the interview. The recording shall be transcribed and the transcription made available to the interviewee for information and comment.

Article 18
Report on the findings

(1) Where the subject has been informed of the allegations or indications of misconduct, they shall, at the conclusion of the investigation, be provided with a written summary of the findings.

(2) The subject shall have the opportunity to respond in writing to the findings within a period of at least seven working days. The deadline set may be extended at the discretion of the investigative unit following a reasoned request of the subject.

(3) All responses shall be duly considered. The investigative unit may amend its findings based on these responses. The subject shall be notified of any such amendments.

(4) The investigative unit shall then submit a written report on the findings of the investigation (hereinafter referred to as "the report") to the President:
   (i) if it finds that misconduct has occurred; or
   (ii) if the President had been informed about the investigative process pursuant to Article 4, paragraph 7, of these Implementing Rules.

(5) Where the subject's appointing authority is the Administrative Council and it is found that misconduct has occurred, the report shall be submitted to the chair of the Council, with a copy to the President. Where the subject is a member of the Boards of Appeal or Enlarged Board of Appeal, the investigative unit shall inform the President of the Boards of Appeal of the findings.

(6) The report shall include:
   (i) an analysis of the relevant facts;
   (ii) the conclusions of the investigative unit, based on a preponderance of the evidence.

(7) The investigative unit shall attach to the report:
   (i) all relevant evidence, including witness statements;
   (ii) the full response and comments of the subject and, where applicable, the complainant.

(8) Upon submission of the report, the complainant shall be notified of the outcome of the investigative process. Such notification shall not include any information capable of revealing the identity of witnesses or third parties connected with the process.

(9) The subject shall receive a copy of the report if and when, on the basis of the report, disciplinary proceedings are initiated.

(10) The investigative unit may, upon request, send an anonymised version of the report to the Board of Auditors.

(11) The report does not constitute a decision within the meaning of Article 108, paragraph 1, of the Service Regulations. This shall in no way prejudice the right of an employee to have recourse to the available means of redress against any decision taken on the basis of the report as provided for in Title VIII of the Service Regulations.

(12) If, based on its findings and conclusions, the investigative unit considers it opportune to make recommendations on corrective measures which do not directly concern the subject, it may do so in a separate document.

Article 19
Statute of limitations

(1) Allegations of misconduct shall be filed in writing within six months of the date of the last incident of alleged misconduct, or the date on which the complainant became aware of it or could reasonably be expected to have become aware of it.

(2) The investigative unit may decline to initiate an investigative process if, at the time of receipt of the complaint, the period provided for in paragraph 1 has elapsed or if more than three years have passed since the last alleged incident of misconduct.

Article 20
Referral to national authorities

(1) At any time during the investigative process, the investigative unit may, in view of the nature of the allegations or indications of misconduct and the interests of the parties or the Organisation, refer the matter, with the approval of the President, to the competent national authorities in whole or in part.

(2) In such cases, the investigative unit may share its findings, the evidence gathered and any other pertinent information with the national authorities as appropriate.

Article 21
Retaining of records

(1) The investigative unit shall retain all records pertaining to
   (i) the initial review and preliminary evaluation for three years after the conclusion of the respective stage of the investigative process where it does not proceed to the investigation stage;
   (ii) an investigation for seven years after its conclusion.

(2) The Office shall retain, for a period of ten years following its submission, any report which concludes that misconduct has occurred.

(3) The Office shall retain such documentation beyond the time frames specified in paragraphs 1 and 2 where
   (i) the matter is subject to litigation; or
   (ii) there is a reasonable expectation that the matter will become subject to litigation.

Article 22
Final provisions

(1) These Implementing Rules shall enter into force on 1 July 2017 and shall apply to any investigative process initiated on or after that date. They supersede Circular No. 342 as from that date.

(2) The investigative unit shall submit an annual report on its activities to the President of the Office and to the Board of Auditors.

RULES OF PROCEDURE OF THE APPEALS COMMITTEE
(Articles 111(2) and 111a(2) of the Service Regulations)

THE APPEALS COMMITTEE of the European Patent Office,
HAVING DUE REGARD to Articles 111(2) and 111a(2) of the Service Regulations for permanent employees of the European Patent Office ("Service Regulations"),
HAVING RECEIVED THE APPROVAL from the President of the European Patent Office,
HAS ADOPTED the following Rules of Procedure:

Rule 1
General

(1) The chair and the two vice-chairs of the Appeals Committee shall preside over a chamber, in accordance with Articles 111(4)(a) and 111a(1) of the Service Regulations.

(2) Decisions by the Appeals Committee shall be taken by majority.

(3) Without prejudice to Article 13(2) of the Implementing Rules to Articles 106 to 113 of the Service Regulations ("Implementing Rules"), decisions and opinions by the chambers shall be considered as having been taken by the Appeals Committee as a whole.

(4) Members shall inform the chair or the presiding member of the relevant chamber without delay if they are unable to act for compelling reasons such as conflict of interest or illness. Where a vice-chair is concerned, they shall inform the chair accordingly. Where the chair is concerned, they shall inform the vice-chairs accordingly.

(5) The chair and vice-chairs may delegate among themselves the authority to act on their behalf in case of absence or inability to act.

(6) The Appeals Committee's Secretariat shall perform the duties assigned to it in accordance with these rules.

Rule 2
Formation of chambers

(1) For each session, the chair, after consultation of the vice-chairs, and in accordance with Article 111(4) of the Service Regulations, shall decide which presiding members and members are to be assigned to the chambers. The members of the chambers shall be designated from among all the members of the Appeals Committee.

(2) If a member is unable to act or resigns, the presiding member of the relevant chamber shall, when possible and without prejudice to Article 111(6) of the Service Regulations, organise their replacement in the session. Additionally, if a member resigns, the chair shall inform the Office.

Rule 3
Enlarged chamber

(1) The enlarged chamber pursuant to Article 111(5) of the Service Regulations shall be constituted before the end of each calendar year for one year.

(2) The members of the enlarged chamber shall be designated, in accordance with Article 111(5) of the Service Regulations, from among all the members of the Appeals Committee by a drawing of lots. If a member is unable to act or resigns, a new member shall be designated among the remaining members by a new drawing of lots. If a member resigns, the chair shall inform the Office.

Rule 4
Independence and impartiality of the Appeals Committee

(1) Where an objection has been made by a party with regard to the independence or impartiality of the chair, a vice-chair or a member, the decision to be taken in accordance with Article 112 of the Service Regulations on that objection shall, as far as possible, be taken before any consideration of the receivability or merits of the internal appeal by the Appeals Committee has taken place.

(2) Where the objection referred to in paragraph 1 is directed against the chair or a vice-chair and there has been a tie in the voting on the objection, the chair or the vice-chair concerned shall be considered unable to act further in the internal appeal.

(3) Any person against whom an objection has been made shall be given the opportunity to submit written comments upon the objection before a decision within the meaning of this Rule is taken.

Rule 5
Registration fee

(1) The registration fee referred to in Article 5(3) of the Implementing Rules shall be paid for each separate appeal and by each appellant by making a bank transfer to the Office within two weeks of filing the appeal. Cash payment shall not be accepted.

(2) The appellant shall at the same time provide the Secretariat with a written proof of payment.

(3) If the appellant fails to make the bank transfer with regard to the payment of the registration fee within the time limit set in paragraph 1, the internal appeal shall not be registered. The Secretariat shall inform the appellant accordingly.

Rule 6
Appeal file

(1) Upon receipt of an internal appeal and payment of the registration fee, the Secretariat shall open an appeal file and assign a registration number.

(2) For the purpose of Article 4(3)(a) of the Implementing Rules, the internal appeal shall be accompanied by any supporting documentary evidence. In particular, the appellant shall produce, when applicable:
   (a) the request to take an individual decision;
   (b) the decision challenged;
   (c) the request for review; and
   (d) the decision on the outcome of the review.

(3) If the internal appeal contains minor defects or omissions the Secretariat shall advise the appellant and set a reasonable time limit, within which to correct the defects or omissions. If the appellant fails to put the internal appeal in order within the time limit prescribed, the presiding member of the relevant chamber may decide to have the appeal put on the agenda with a view to its being dealt with by the Appeals Committee in a summary procedure in accordance with Article 9 of the Implementing Rules.

(4) All submissions of the parties shall be placed on file in chronological order and given page numbers.

(5) Internal communications, memoranda and notes of the Appeals Committee in a given internal appeal shall not be part of the appeal file. They shall be archived internally.

Rule 7
Assignment of appeal files

(1) The chair shall assign internal appeals to chambers in good time after their registration. The internal appeals shall be assigned or reassigned to the chambers with due consideration given to the connection between cases and to the principle of equitable distribution of workload.

(2) Before assigning an internal appeal to the enlarged chamber referred to in Rule 3 of these Rules of Procedure, the chair shall consult the vice-chairs.

Rule 8
Test-case procedure

(1) Having due regard to Article 9b(1) and (2) of the Implementing Rules, the presiding member of the relevant chamber may, at any time during the procedure, decide to initiate a test-case procedure.

(2) When deciding whether to initiate a test-case procedure, the presiding member of the relevant chamber shall take into account:
   (a) the type and scale of the contested decision;
   (b) the number of internal appeals filed;
   (c) the claims and arguments put forward by the appellants in their internal appeals; and
   (d) the possible consequences of dealing with the internal appeals in a test-case procedure.

(3) When seeking the views of the parties on the suitability of a test-case procedure, the presiding member of the relevant chamber shall concomitantly solicit applications for possible test-appellants.

(4) If the presiding member of the relevant chamber decides to initiate a test-case procedure, they shall select test-appellants among the applicants referred to in the preceding paragraph of this Rule, with due consideration given to the representative character of their internal appeals.

(5) In case of an insufficient number of applicants as referred to in paragraph 3 of this Rule, or when the internal appeals lodged by such applicants are not sufficiently representative of the totality of the internal appeals concerned by the test-case procedure, the presiding member of the relevant chamber shall designate the test-appellants among all the appellants concerned by the test-case procedure.

(6) The presiding member of the relevant chamber shall suspend the proceedings of all pending internal appeals concerned by the test-case procedure, with the exception of those lodged by the test-appellants.

(7) The presiding member of the relevant chamber may at any time during the procedure decide to dissociate one or more internal appeals from a test-case procedure.

Rule 9
Session agenda

(1) The presiding members of the chambers shall determine, and the Secretariat shall prepare, the agenda of the chambers for each relevant session. Consideration is given to the appellant's place of employment if an oral hearing is to be held.

(2) Internal appeals are in principle dealt with in order of receipt. The presiding member of the relevant chamber may however give priority treatment to a given internal appeal, in particular for reasons of urgency.

(3) If the presiding member of the relevant chamber considers that an internal appeal could be dealt with in summary proceedings, they may have it put on the agenda for decision by the Appeals Committee at its next possible session. The parties shall be informed of this no later than two weeks before the session.

Rule 10
Preparing sessions

(1) The Secretariat shall ensure that the presiding member and all members of the relevant chamber have access to the complete appeal file in due time prior to the beginning of the session.

(2) The Secretariat director shall assign a lawyer for each appeal file, who will prepare an internal note. This internal note shall contain a summary of the relevant facts and arguments of the parties, as well as a preliminary assessment of the case. Any such note shall be communicated by the presiding member of the relevant chamber to the members of that chamber in due time prior to the beginning of the session.

Rule 11
Hearings

(1) Any request by a party for an oral hearing to be held must be filed at the latest within two weeks of the dispatch of the notification by the Secretariat to the parties that the written procedure has been closed.

(2) If the presiding member of the relevant chamber decides to hold a hearing, they shall ensure that the parties are informed, not less than three weeks in advance:
   (a) of the scheduled hearing; and
   (b) of the relevant chamber's composition, subject to Rules 1(5) and 2(2) of these Rules of Procedure.

(3) The presiding member of the relevant chamber may decide that the hearing is to be held by videoconference. In this case, the presiding member of the relevant chamber shall be responsible for the corresponding arrangements and shall inform the parties thereof.

(4) The parties shall confirm their attendance as soon as possible and at the latest within two weeks of the dispatch of the invitation. In the absence of such confirmation, the presiding member of the relevant chamber may decide to deal with the internal appeal in a written procedure only.

(5) Participants in a hearing shall be asked by the Secretariat to indicate, at least three weeks before the date of the hearing, which one of the three official languages of the Office they will be using at the hearing.

(6) The presiding member of the relevant chamber may request interpretation into one of the three official languages. Interpreters shall be bound by secrecy.

(7) The presiding member of the relevant chamber shall be responsible for conducting the hearing, which, as required by Article 7(7) of the Implementing Rules, shall take place in camera.

(8) The presiding member of the relevant chamber may decide that the hearing shall be recorded. In this case, the recording shall be deleted no later than the date when the Secretariat is informed that a final decision pursuant to Article 110(4) of the Service Regulations has been taken.

(9) The presiding member of the relevant chamber may decide to change the date of a hearing only for compelling reasons, which shall be communicated to the parties.

Rule 12
Witness testimony and hearing of experts

(1) The parties may propose witnesses or experts in good time before the hearing. The presiding member of the relevant chamber may direct that any person who is considered to have information relevant to the internal appeal be convened to be heard as a witness or an expert.

(2) The presiding member of the relevant chamber shall ensure that any witnesses or experts to be heard by the relevant chamber are convened in good time before the hearing.

Rule 13
Deliberations

(1) The Appeals Committee shall deliberate in private. Its deliberations shall remain secret. The chambers may be assisted by one or more staff members referred to in Article 111(8) of the Service Regulations during the deliberation.

(2) The deliberation shall in general take place in the session in which the internal appeal has been either heard or dealt with in a written procedure.

(3) The deliberation shall end by a vote.

(4) The Secretariat lawyer assigned to the internal appeal shall draw up the draft opinion following the Appeals Committee's vote, for finalisation by the presiding member of the relevant chamber.

Rule 14
Opinions

(1) Pursuant to Article 13(2) of the Implementing Rules, the opinion adopted by the Appeals Committee shall be signed by the member presiding over the chamber when the opinion was adopted.

(2) The presiding member of the relevant chamber may set a time limit for the submission of any possible dissenting views. The text of any dissenting views received by the Appeals Committee Secretariat within this time limit shall be included in the opinion of the Appeals Committee.

(3) The Appeals Committee's opinion shall be forwarded to the President together with the appeal file.

Rule 15
Keeping of appeal files

(1) Appeal files shall be destroyed ten years after their withdrawal or definitive resolution through:
   (a) a final decision taken by the President which has not been challenged; or
   (b) a judgment by the Administrative Tribunal of the International Labour Organisation; or
   (c) an amicable settlement.

(2) Members shall destroy any files or copies of files pertaining to an appeal file two months after the issuing of the Appeals Committee's opinion.

Rule 16
Final provisions

(1) These Rules of Procedure shall enter into force on 16.11.2017. They shall cancel and replace any previous rules.

(2) The Appeals Committee may adopt amendments to these Rules of Procedure, which amendments shall be submitted to the President for approval in accordance with Article 111a(2) of the Service Regulations.

RULES OF PROCEDURE OF THE APPEALS COMMITTEE[1]

(Articles 111(1) and 111a(2) of the Service Regulations)

THE APPEALS COMMITTEE,
HAVING DUE REGARD to Articles 111(1) and 111a(2) of the Service Regulations for permanent employees of the European Patent Office ("the Service Regulations") and Article 18 of the Rules of Procedure of the Administrative Council,
HAVING RECEIVED THE APPROVAL from the Administrative Council of the European Patent Organisation,
HAS ADOPTED the following Rules of Procedure:

Rule 1
General

(1) The chair and the two vice-chairs of the Appeals Committee shall each preside over a chamber, in accordance with Articles 111(4)(a) and 111a(1) of the Service Regulations.

(2) Decisions by the Appeals Committee shall be taken by majority.

(3) Without prejudice to Article 13(2) of the Implementing Rules to Articles 106 to 113 of the Service Regulations ("the Implementing Rules"), decisions and opinions by the chambers shall be considered as having been taken by the Appeals Committee as a whole.

(4) Members shall inform the chair or the presiding member of the relevant chamber without delay if they are unable to act for compelling reasons such as conflict of interest or illness. Where a vice-chair is concerned, he/she shall inform the chair accordingly. Where the chair is concerned, he/she shall inform the vice-chairs accordingly.

(5) The chair and vice-chairs may delegate among themselves the authority to act on their behalf in case of absence or inability to act.

(6) The Secretariat of the Appeals Committee ("the Secretariat") shall perform the duties assigned to it in accordance with these Rules.

Rule 2
Formation of chambers

(1) For each session, the chair, after consultation of the vice-chairs, and in accordance with Article 111(4) of the Service Regulations, shall decide which presiding members and members are to be assigned to the chambers. The members of the chambers shall be designated from among all the members of the Appeals Committee.

(2) If a member is unable to act or resigns, the presiding member of the relevant chamber shall, when possible and without prejudice to Article 111(6) of the Service Regulations, organise his/her replacement in the session.

1 Decision of the Administrative Council CA/D 4/18.

Additionally, if a member resigns, the chair shall inform the Office.

Rule 3
Enlarged chamber

(1) The enlarged chamber pursuant to Article 111(5) of the Service Regulations shall be constituted before the end of each calendar year for one year.

(2) The members of the enlarged chamber shall be designated, in accordance with Article 111(5) of the Service Regulations, from among all the members of the Appeals Committee by a drawing of lots. If a member is unable to act or resigns, a new member shall be designated among the remaining members by a new drawing of lots. If a member resigns, the chair shall inform the Office.

Rule 4
Independence and impartiality of the Appeals Committee

(1) Where an objection has been made by a party with regard to the independence or impartiality of the chair, a vice-chair or a member, the decision to be taken in accordance with Article 112 of the Service Regulations on that objection shall, as far as possible, be taken before any consideration of the receivability or merits of the internal appeal by the Appeals Committee has taken place.

(2) Where the objection referred to in paragraph 1 is directed against the chair or a vice-chair and there has been a tie in the voting on the objection, the chair or the vice-chair concerned shall be considered unable to act further in the internal appeal.

(3) Any person against whom an objection has been made shall be given the opportunity to submit written comments upon the objection before a decision within the meaning of this Rule is taken.

Rule 5
Registration fee

(1) The registration fee referred to in Article 5(3) of the Implementing Rules shall be paid for each separate appeal and by each appellant by making a bank transfer to the Office within two weeks of filing the appeal. Cash payment shall not be accepted.

(2) The appellant shall at the same time provide the Secretariat with a written proof of payment.

(3) If the appellant fails to make the bank transfer with regard to the payment of the registration fee within the time limit set in paragraph 1, the internal appeal shall not be registered. The Secretariat shall inform the appellant accordingly.

Rule 6
Appeal file

(1) Upon receipt of an internal appeal and payment of the registration fee, the Secretariat shall open an appeal file and assign a registration number.

(2) For the purpose of Article 4(3)(a) of the Implementing Rules, the internal appeal shall be accompanied by any supporting documentary evidence. In particular, the appellant shall produce, when applicable:
   (a) the request to take an individual decision;
   (b) the decision challenged;
   (c) the request for review; and
   (d) the decision on the outcome of the review.

(3) If the internal appeal contains minor defects or omissions the Secretariat shall advise the appellant and set a reasonable time limit within which to correct the defects or omissions. If the appellant fails to put the internal appeal in order within the time limit prescribed, the presiding member of the relevant chamber may decide to have the appeal put on the agenda with a view to its being dealt with by the Appeals Committee in a summary procedure in accordance with Article 9 of the Implementing Rules.

(4) All submissions of the parties shall be placed on file in chronological order and given page numbers.

(5) Internal communications, memoranda and notes of the Appeals Committee in a given internal appeal shall not be part of the appeal file. They shall be archived internally.

Rule 7
Assignment of appeal files

(1) The chair shall assign internal appeals to chambers in good time after their registration. The internal appeals shall be assigned or reassigned to the chambers with due consideration given to the connection between cases and to the principle of equitable distribution of workload.

(2) Before assigning an internal appeal to the enlarged chamber referred to in Rule 3 of these Rules of Procedure, the chair shall consult the vice-chairs.

Rule 8
Test-case procedure

(1) Having due regard to Article 9b(1) and (2) of the Implementing Rules, the presiding member of the relevant chamber may, at any time during the procedure, decide to initiate a test-case procedure.

(2) When deciding whether to initiate a test-case procedure, the presiding member of the relevant chamber shall take into account:
   (a) the type and scale of the contested decision;
   (b) the number of internal appeals filed;
   (c) the claims and arguments put forward by the appellants in their internal appeals; and

(d) the possible consequences of dealing with the internal appeals in a test-case procedure.

(3) When seeking the views of the parties on the suitability of a test-case procedure, the presiding member of the relevant chamber shall concomitantly solicit applications for possible test-appellants.

(4) If the presiding member of the relevant chamber decides to initiate a test-case procedure, he/she shall select test-appellants among the applicants referred to in the preceding paragraph of this Rule, with due consideration given to the representative character of their internal appeals.

(5) In case of an insufficient number of applicants as referred to in paragraph 3 of this Rule, or when the internal appeals lodged by such applicants are not sufficiently representative of the totality of the internal appeals concerned by the test-case procedure, the presiding member of the relevant chamber shall designate the test-appellants among all the appellants concerned by the test-case procedure.

(6) The presiding member of the relevant chamber shall suspend the proceedings of all pending internal appeals concerned by the test-case procedure, with the exception of those lodged by the test-appellants.

(7) The presiding member of the relevant chamber may at any time during the procedure decide to dissociate one or more internal appeals from a test-case procedure.

Rule 9
Session agenda

(1) The presiding members of the chambers shall determine, and the Secretariat shall prepare, the agenda of the chambers for each relevant session. Consideration shall be given to the appellant's place of employment if an oral hearing is to be held.

(2) Internal appeals are in principle dealt with in order of receipt. The presiding member of the relevant chamber may however give priority treatment to a given internal appeal, in particular for reasons of urgency.

(3) If the presiding member of the relevant chamber considers that an internal appeal could be dealt with in summary proceedings, he/she may have it put on the agenda for decision by the Appeals Committee at its next possible session. The parties shall be informed of this no later than two weeks before the session.

Rule 10
Preparing sessions

(1) The Secretariat shall ensure that the presiding member and all members of the relevant chamber have access to the complete appeal file in due time prior to the beginning of the session.

(2) The Director of the Secretariat shall assign a lawyer for each appeal file, who will prepare an internal note. This internal note shall contain a summary of the relevant facts and arguments of the parties, as well as a preliminary assessment of the case. Any such note shall be communicated by the presiding member of the relevant chamber to the members of that chamber in due time prior to the beginning of the session.

Rule 11
Hearings

(1) Any request by a party for an oral hearing to be held must be filed at the latest within two weeks of the dispatch of the notification by the Secretariat to the parties that the written procedure has been closed.

(2) If the presiding member of the relevant chamber decides to hold a hearing, he/she shall ensure that the parties are informed, not less than three weeks in advance:
   (a) of the scheduled hearing; and
   (b) of the relevant chamber's composition, subject to Rules 1(5) and 2(2) of these Rules of Procedure.

(3) The presiding member of the relevant chamber may decide that the hearing is to be held by videoconference. In this case, the presiding member of the relevant chamber shall be responsible for the corresponding arrangements and shall inform the parties thereof.

(4) The parties shall confirm their attendance as soon as possible and at the latest within two weeks of the dispatch of the invitation. In the absence of such confirmation, the presiding member of the relevant chamber may decide to deal with the internal appeal in a written procedure only.

(5) Participants in a hearing shall be asked by the Secretariat to indicate, at least three weeks before the date of the hearing, which one of the three official languages of the Office they will be using at the hearing.

(6) The presiding member of the relevant chamber may request interpretation into one of the three official languages. Interpreters shall be bound by secrecy.

(7) The presiding member of the relevant chamber shall be responsible for conducting the hearing, which, as required by Article 7(7) of the Implementing Rules, shall take place in camera.

(8) The presiding member of the relevant chamber may decide that the hearing shall be recorded. In this case, the recording shall be deleted no later than the date when the Secretariat is informed that a final decision pursuant to Article 110(4) of the Service Regulations has been taken.

(9) The presiding member of the relevant chamber may decide to change the date of a hearing only for compelling reasons, which shall be communicated to the parties.

Rule 12
Witness testimony and hearing of experts

(1) The parties may propose witnesses or experts in good time before the hearing. The presiding member of the relevant chamber may direct that any person who is considered to have information relevant to the internal appeal be convened to be heard as a witness or an expert.

(2) The presiding member of the relevant chamber shall ensure that any witnesses or experts to be heard by the relevant chamber are convened in good time before the hearing.

Rule 13
Deliberations

(1) The Appeals Committee shall deliberate in private. Its deliberations shall remain secret. The chambers may be assisted by one or more staff members referred to in Article 111(8) of the Service Regulations during the deliberation.

(2) The deliberation shall in general take place in the session in which the internal appeal has been either heard or dealt with in a written procedure.

(3) The deliberation shall end by a vote.

(4) The Secretariat lawyer assigned to the internal appeal shall draw up the draft opinion following the Appeals Committee's vote, for finalisation by the presiding member of the relevant chamber.

Rule 14
Opinions

(1) Pursuant to Article 13(2) of the Implementing Rules, the opinion adopted by the Appeals Committee shall be signed by the member presiding over the chamber when the opinion was adopted.

(2) The presiding member of the relevant chamber may set a time limit for the submission of any possible dissenting views. The text of any dissenting views received by the Secretariat within this time limit shall be included in the opinion of the Appeals Committee.

(3) The opinion of the Appeals Committee shall be forwarded to the Administrative Council together with the appeal file.

Rule 15
Keeping of appeal files

(1) Appeal files shall be destroyed ten years after their withdrawal or definitive resolution through:
   (a) a final decision taken by the Administrative Council which has not been challenged; or
   (b) a judgment by the Administrative Tribunal of the International Labour Organisation; or
   (c) an amicable settlement.

(2) Members shall destroy any files or copies of files pertaining to an appeal file two months after the issuing of the opinion of the Appeals Committee.

Rule 16
Final provisions

(1) These Rules of Procedure shall enter into force on 23 March 2018. They shall cancel and replace any previous rules.

(2) The Appeals Committee may adopt amendments to these Rules of Procedure, which amendments shall be submitted to the Administrative Council for approval in accordance with Article 111a(2) of the Service Regulations.

PROCEDURE FOR THE RECRUITMENT OF MEMBERS AND CHAIRMEN OF THE BOARDS OF APPEAL[1]

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,
Having regard to the European Patent Convention and in particular Article 11(3) and Rule 12d(2) thereof,
Having regard to the Service Regulations for permanent employees of the European Patent Office (hereinafter referred to as "ServRegs") and in particular Articles 5, 6 and 7 thereof,
Having regard to the Act of Delegation by the President of the European Patent Office,
On a proposal from the President of the Boards of Appeal, submitted after consulting the Boards of Appeal Committee,
HAS DECIDED AS FOLLOWS:

Article 1
Scope

This decision shall govern the procedure for the recruitment of members and chairmen of the Boards of Appeal.

Article 2
Recruitment criteria

In addition to the recruitment criteria laid down in Articles 5 and 6 ServRegs, the ability to carry out a judicial function shall be an important criterion in the recruitment of members and chairmen of the Boards of Appeal. The competencies used for evaluating the performance of members and chairmen of the Boards of Appeal shall also be used as recruitment criteria.

Article 3
Selection committee

(1) The President of the Boards of Appeal shall set up a selection committee for each recruitment procedure. A recruitment procedure may concern multiple vacant posts.

(2) The President of the Boards of Appeal shall chair the selection committee. He may delegate the chairmanship to a chairman of the Boards of Appeal.

(3) The selection committee shall consist of at least four members, including the chairman. The President of the Boards of Appeal may appoint one member of the selection committee from among the members of the Boards of Appeal Committee referred to in Article 2(1)(b) of Administrative Council decision CA/D 7/16 (serving or former judges). The President of the Boards of Appeal shall appoint all other members of the selection committee from among the members of the Boards of Appeal, as a rule from among the chairmen of the Boards of Appeal.

1 Decision of the Administrative Council CA/D 3/18.

Article 4
Vacancy notice

The President of the Boards of Appeal shall draw up a vacancy notice for each recruitment procedure, which shall be published.

Article 5
Interviews

After the selection committee has examined the application documents, the President of the Boards of Appeal shall invite candidates for interview.

Article 6
Proposal for appointment

(1) The decision on which candidate to propose for appointment by the Administrative Council as a member or a chairman of the Boards of Appeal shall lie with the President of the Boards of Appeal. The President of the Boards of Appeal shall base his decision on the list of suitable candidates drawn up by the selection committee, set out in order of preference and supplemented by a statement of reasons. The President of the Boards of Appeal shall not be bound by the order of preference of the selection committee.

(2) The number of candidates proposed to the Administrative Council by the President of the Boards of Appeal shall not exceed the number of posts to be filled.

Article 7
Implementing rules

The President of the Boards of Appeal may, after having consulted the Boards of Appeal Committee, lay down further rules for the recruitment of members and chairmen of the Boards of Appeal.

Article 8
Entry into force

This decision shall enter into force on 1 April 2018.
Done at Munich, 22 March 2018
For the Administrative Council

The Chairman
Christoph ERNST

IMPLEMENTING RULES FOR ARTICLES 1B AND 32A OF THE SERVICE REGULATIONS FOR PERMANENT AND OTHER EMPLOYEES OF THE EPO ON THE PROTECTION OF PERSONAL DATA[1]

1 See Part 3 - Legal framework for the protection of personal data at the EPO

Service Regulations for permanent and other employees, implementing rules, circulars and communiqués

Circulars and communiqués

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Circular No. 22
(16 January 1979,18 September 1995, 22 December 2004,1 July 2007, 26 May 2009, 28 March 2012, 26 March 2013, 2 September 2013, 25 September 2013, 11 May 2015 and 13 July 2021 and 1 January 2023)

Guidelines for leave: Articles 44, 44a, 44b, 59, 60, 61 and 61a of the Service Regulations for permanent and other employees of the European Patent Office

Rule 1[1]

Rule 2

Article 44a
Parental leave

(a) Entitlement

(i) An employee is entitled to up to 120 working days' parental leave under the conditions laid down in Article 44a of the Service Regulations. For single parents, the period of parental leave is 240 working days. Any period of parental leave must be completed before the end of the month in which the child reaches the age of twelve. Parental leave may only be taken on a full-time or a half-time basis and may be taken in one or more instalments.

(ii) For the purposes of Article 44a of the Service Regulations, the definition of single parent covers employees who declare that they are de facto bringing up a child alone. Single parent status is established at the time of each individual application for parental leave. Should the status change from one period of parental leave to the next, the parental leave entitlement changes accordingly. The balance of days is calculated by deducting, from the total entitlement corresponding to the new status, the number of days of parental leave already taken in the previous status. For example, a married employee who has taken 40 days' parental leave and lodges an application for parental leave as a single parent has the entitlement balance converted to 200 days (240 days minus 40 days). The parental leave entitlement reverts back to a maximum entitlement of 120 days for any employee who ceases to be a single parent.

(iii) If both parents are employees of the EPO, each parent is entitled to parental leave.

(iv) Employees on parental leave retain the right to advancement to a higher step and promotion in grade and retain their post.

1 See Circular No. 422, Article 16.

(v) Staff in job groups 5 or 6 are not entitled to parental leave during the first three months of their probationary period. Staff in job groups 1 to 4 are not entitled to parental leave during the first six months of their probationary period. Parental leave, being non-active status, suspends the probationary period, which resumes at the end of the leave.

(vi) Parental leave may not be granted during any period of extended probation in accordance with Article 13(2) of the Service Regulations.

(vii) Having regard to the requirements of the service, the commencement of parental leave may be postponed by a maximum of one month. Such a postponement does not have the effect of reducing the parental leave allowance.

(b) Remuneration and contributions to social security and pension schemes

(i) Remuneration ceases during periods of full-time parental leave.

(ii) Employees on parental leave are paid a monthly allowance corresponding to 25% of the basic salary for Grade G4, step 4.

(iii) The allowance is increased to 33% of the basic salary for Grade G4, step 4, for:

- single parents,
- fathers for up to 60 working days during maternity leave,
- either parent during the 60 working days immediately after the maternity or adoption leave.

If the mother is not an employee, maternity leave is determined by applying the provisions of Article 61 of the Service Regulations by analogy.

(iv) For periods of half-time parental leave the monthly allowance is reduced by half.

(v) Dependants', young child and education allowances paid under Articles 69, 70, 70a and 71 of the Service Regulations continue to be paid in full. No other allowances are payable during parental leave taken on a full-time basis. For parental leave taken on a half-time basis, the basic salary and any other allowances payable are reduced by half.

(vi) Contributions to the social security scheme provided for under Articles 83 to 86 of the Service Regulations are paid in full by the Office on the basis of the employee's full-time basic salary. When parental leave is taken on a half-time basis, the Office pays the contributions for the 50% not worked. Long-term care insurance for the employee's spouse continues at the employee's expense unless the employee expressly requests that it be suspended.

(vii) The employee automatically continues to pay contributions towards the Office's pension scheme and, where applicable, the salary savings plan unless the employee expressly requests that payment be

suspended. The contributions are based on the employee's full-time basic salary. The employee pays one-third and the Office two-thirds of the total contributions. During parental leave taken on a half-time basis, the employee contributes to the Office's pension scheme and, where applicable, the salary savings plan for the 50% not worked unless the employee expressly requests that payment be suspended; the employee then pays one-third and the Office two-thirds of the 50% contributions.

(c) Procedure

(i) An application for parental leave must be submitted in writing by the employee, via the line manager, to the Human Resources Department at the latest three working days prior to the requested starting date of the parental leave.

Employees who want to take an extended period of parental leave must discuss this with their line manager well in advance.

(d) Other conditions

(i) Entitlements to annual and home leave cease during periods of full-time parental leave. The annual leave and home leave of an employee who takes parental leave on a half-time basis are reduced in proportion.

(ii) During parental leave the employee may not engage in any other gainful employment.

(iii) Any period of parental leave taken, be it full-time or half-time, must amount to at least 7 successive calendar days.

(iv) During parental leave on a half-time basis the employee may not work overtime, perform shift work or be on call according to Articles 57, 58 and 58a of the Service Regulations.

(v) Half-time parental leave for the purposes of Article 44a of the Service Regulations is defined as 50% of the working week provided for by Article 55(2) of the Service Regulations.

(vi) An employee is not entitled to sick or special leave during periods of full-time parental leave. During parental leave on a half-time basis, the employee is entitled to sick or special leave only for the time worked.

(vii) In case of hardship the employee may request that the parental leave be terminated.

Rule 3

Article 44b
Family leave

(a) Entitlement

(i) Employees are entitled to up to 180 working days' family leave under the conditions laid down in Article 44b of the Service Regulations. Family leave may only be taken on a full-time or a half-time basis and may be taken in one or more instalments.

(ii) Employees on family leave retain the right to advancement to a higher step and promotion in grade and retain their post.

(iii) Only in exceptional circumstances may staff in job groups 5 or 6 be granted family leave during the first three months of their probationary period. Only in exceptional circumstances may staff in job groups 1 to 4 be granted family leave during the first six months of their probationary period. Family leave, being non-active status, suspends the probationary period, which resumes at the end of the leave.

(iv) Family leave may not be granted during any period of extended probation in accordance with Article 13(2) of the Service Regulations.

(v) Having regard to the requirements of the service, the commencement of family leave may be postponed by a maximum of one month.

(b) Remuneration and contributions to social security and pension schemes

(i) Remuneration ceases during periods of full-time family leave.

(ii) Employees on family leave are paid a monthly allowance of 25% of the basic salary for Grade G4, step 4.

(iii) For periods of half-time family leave the monthly allowance is reduced by half.

(iv) Dependants', young child and education allowances paid under Articles 69, 70, 70a and 71 of the Service Regulations continue to be paid in full. No other allowances are payable during family leave taken on a full-time basis. For family leave taken on a half-time basis, the basic salary and any other allowances payable are reduced by half.

(v) Contributions to the social security scheme provided for under Articles 83 to 86 of the Service Regulations are paid in full by the Office on the basis of the employee's full-time basic salary. When family leave is taken on a half-time basis, the Office pays the contributions for the 50% not worked. Long-term care insurance for the employee's spouse continues at the employee's expense unless the employee expressly requests that it be suspended.

(vi) The employee automatically continues to pay contributions towards the Office's pension scheme and, where applicable, the salary savings plan

unless the employee expressly requests that payment be suspended. The contributions are based on the employee's full-time basic salary. The employee pays one-third and the Office two-thirds of the total contributions. During family leave taken on a half-time basis, the employee contributes to the Office's pension scheme and, where applicable, the salary savings plan for the 50% not worked unless the employee expressly requests that payment be suspended; the employee then pays one-third and the Office two-thirds of the 50% contributions.

(c) Procedure

(i) An application for family leave must be submitted in writing by the employee, via the line manager, to the Human Resources Department at the latest three working days prior to the requested starting date of the family leave.

Employees who want to take an extended period of family leave must discuss this with their line manager well in advance.

(ii) The employee must provide the Office's medical adviser with a medical certificate for the family member concerned, giving the diagnosis of the illness or disability. The medical adviser informs the Human Resources Department whether in their opinion the medical conditions of Article 44b are met.

(iii) If the doctor consulted refuses to issue a medical certificate, the employee must supply the doctor's name and address to the Office's medical adviser.

(d) Other conditions

(i) Entitlements to annual and home leave cease during periods of full-time family leave. The annual leave and home leave of an employee who takes family leave on a half-time basis is reduced in proportion.

(ii) For the purposes of Article 44b of the Service Regulations, a family member of an employee is defined as the spouse of an employee, a relative by blood or marriage in the ascending line, a relative in the descending line, or a brother or sister.

(iii) During family leave the employee may not engage in any other gainful employment.

(iv) Any single period of family leave taken must amount to at least 7 successive calendar days.

(v) During family leave on a half-time basis, the employee may not work overtime, perform shift work or be on call according to Articles 57, 58 and 58a of the Service Regulations.

(vi) Half-time family leave for the purposes of Article 44b of the Service Regulations is defined as 50% of the working week provided for by Article 55(2) of the Service Regulations.

(vii) An employee is not entitled to sick or special leave during periods of full-time family leave. During family leave on a half-time basis, the employee is entitled to sick or special leave only for the time worked.

(viii) In case of hardship the employee may request that the family leave be terminated.

Rule 4

Article 59
Public holidays

(a) The President of the Office determines the paid public holidays referred to in Article 59(2)b) of the Service Regulations before the end of each year after consulting the relevant joint committee. The staff are notified at the beginning of each year of the holidays so determined.

(b) The President may decide, in the interest of the Office, to close the Office between Christmas and New Year and/or on a Monday or Friday where a public holiday falls on a Tuesday or Thursday respectively. Staff shall take any type of authorised leave during such closures. The President determines the Office closure days before the end of each year after consulting the relevant joint committee. The staff are notified at the beginning of each year of the closure days so determined.

Rule 5

Article 59
Annual leave

(a) Annual leave – Periods

(i) Annual leave may be taken in one or more instalments at the convenience of the employee concerned and with due regard to the requirements of the service.

(ii) Newly appointed staff should normally not apply for leave during their first three months of service unless they have good grounds for doing so.

(b) Calculation of entitlement

(i) Employees' entitlement to annual leave will be calculated by the Human Resources Department at the time of their appointment in respect of the then current calendar year and thereafter at the beginning of each year, and will be displayed on a standard electronic form.

(ii) A fraction of a month − provided it amounts to at least six working days − will be taken into consideration when calculating the annual leave entitlement. The calculation will be done by means of the following formula:

$$\frac{2.5 \times \text{number of days}}{30}$$

and the result will be rounded up to the next half day.

(iii) Leave entitlement will accrue on the basis of the total length of service completed, including any period of sick leave or annual leave or home leave, as well as any period of notice, even though not actually worked. Periods of unpaid leave, full-time parental leave and full-time family leave will not count towards entitlement to annual leave or home leave.

(c) Procedure

Annual leave shall be taken in units of full or half days. Employees wishing to take annual leave must indicate by means of an electronic form the first and last dates of the period requested. This form is to be submitted as early as possible but at least three working days before the commencement of the leave. It is then automatically forwarded to their line manager for approval and then to the Human Resources Department for registration.

In justified cases, the line manager may agree to waive the three working days limit for obtaining the authorisation.

Save in exceptional cases, employees are not permitted to depart on annual leave until their line manager has approved the leave. In such an exceptional case the line manager must be informed immediately.

At the Office's request, contact details for the leave period should be submitted to the line manager, as soon as they are known.

(d) Unauthorised absence

Line managers must report cases of unauthorised absence on an electronic form to the Human Resources Department within 24 hours of the commencement of the absence.

(e) Leave management and carry-forward of entitlement

(i) Annual leave should normally be taken during the year in which it is due.

(ii) Any balance of annual leave, equal to or less than twelve days, remaining at the end of the year, will be automatically carried forward to the following year.

(iii) Employees may apply to carry forward any balance greater than twelve days only if, for operational reasons certified by their line manager or for other reasons beyond their control, they have been unable to take the whole of their annual leave during the year in question. In such cases, and irrespective of the reasons, the number of days of leave that may be carried forward is strictly limited to 30 days.

(iv) In special cases, duly justified advances of annual leave may be authorised by the Human Resources Department acting on the recommendation of the line manager of the employee concerned.

(f) Balance of entitlement − Cessation of employment

(i) Upon cessation of employment, the balance of leave due to an employee may not exceed twelve days. The President may allow exceptions in demonstrable cases of force majeure.

(ii) Employees who have not taken the whole of the leave due to them when their appointment ends will receive in lieu thereof the corresponding emoluments comprising:

- salary, calculated on the basis of thirtieths of their monthly salary in accordance with Article 65(1)(b) of the Service Regulations, including any intervening step increases,
- family allowances,
- expatriation allowance,
- rent allowance,
- language allowance, if any,
- acting allowance.

(iii) For the purpose of calculating the above compensation, the number of days payable in respect of outstanding annual leave will be reckoned in the same way as if the leave had been taken when the employee was still in post.

(iv) Employees who have taken leave in advance and in excess of that due to them when their appointment ends must repay the emoluments received for the corresponding period.

(v) Contributions to the social security scheme and the pension scheme will be deducted from the emoluments paid in lieu of outstanding leave pursuant to paragraph (ii) above.

(g) Sickness on leave

Where, during annual leave or home leave, employees suffer from an ailment that would have kept them away from work, their annual leave entitlement will be extended by the period of incapacity duly established by a medical certificate.

Rule 6

Article 59
Special leave with pay

(1) All applications for special leave, and for additional leave for travel time in connection with any case of special leave, must be referred to the Human Resources Department with the recommendation or otherwise of the person competent to countersign applications for annual leave.

(2) Applications must be submitted on a standard leave form as early as possible in advance of the requested date of commencement of the leave. Where the circumstances are such as to render it impossible for the employees concerned to obtain prior authorisation, they should endeavour to inform their line manager of these circumstances without delay and submit a written application as soon as possible thereafter.

(3) In addition to the cases provided for in Article 59(3), special leave may be granted inter alia in the following cases and up to the following limits:

(a) Death of another immediate relative (e.g. grandchild, brother, sister)	2 working days
Serious illness of parents-in-law	2 working days
Death of parents-in-law	2 working days
Death of any other person related by blood or marriage	1 working day

For the purposes of special leave, dependants within the meaning of Articles 69 or 70 of the Service Regulations will be regarded as children.

(b) Voting in national elections or referenda in the country of origin Court appearances	Necessary periods determined by the President in each case
(c) Transfer to another place of employment	5 working days, including travel time

(d) Further training: examinations

Employees may, on request, be granted up to ten days' special leave per year for further training and/or examinations. In granting such leave, due account will be taken of the requirements of the service.

This provision applies to requests from staff for permission to attend further training courses and to sit examinations on their own initiative.

Special leave for training purposes can be granted in the following cases:

- to enable employees to sit examinations (not to prepare for them)
- for 50% of the duration of the course for attending language courses in one of the three official languages away from the employee's place of employment.

Three days' special leave may be granted, on request, to employees who pass the European qualifying examination, by way of compensation for the time spent preparing for that examination. Employees should apply for such leave within six months of the date of being informed by the Examination Board that they have passed.

(e) Special leave will be supplemented, where applicable, by the necessary travelling time.

The duration of the journey and the route will be calculated in accordance with the regulations governing duty travel. The following travel times will be considered as the minimum necessary:

(i) ½ a day when the distance between place of employment and destination in either direction is between 100 and 400 km or the journey in either direction takes between four and eight hours;

(ii) ½ a day each way when the distance in either direction is between 401 and 800 km or the journey in either direction takes between eight and twelve hours;

(iii) 1 day each way when the distance in either direction is more than 800 km or the journey in either direction takes over twelve hours.

However, this regulation does not apply where the entire travel time required falls on a weekend or public holiday.

Travelling time for the outward or return journey will be credited if the journey is actually made on a working day (during working hours). This applies even if the weekend or a public holiday could have been used instead.

Example:

- special leave on Monday, 8 July and Tuesday, 9 July
- journey to a destination over 800 km away
- outward journey on Friday, 5 July: one travel day credited
- return on Wednesday, 10 July: one travel day credited

On both travel days the employee is absent from work throughout working hours.

Rule 7

Article 59
Special leave for the birth of a child

(a) Entitlement

(i) An employee is entitled to ten working days' special leave upon the birth of a child, under the conditions laid down in Article 59 of the Service Regulations. Multiple births (twins, triplets, etc.) confer a single special leave entitlement.

(ii) The special leave may be supplemented once, where applicable, by the necessary travelling time (see Rule 6(3)d)).

(iii) The child must be considered dependent within the meaning of Article 69 of the Service Regulations.

(b) Procedure

(i) The employee must provide the Human Resources Department with the birth certificate issued by the relevant national administrative authority. A certified translation into one of the official languages may be requested.

(ii) The leave must be taken during the 14 weeks following the birth.

Rule 8

Article 59
Special leave

Hospitalisation of a child of twelve years of age or under, or very serious illness of a child

(a) Entitlement

(i) An employee is entitled to up to five working days' special leave for the hospitalisation of a child aged twelve or under or the very serious illness of a child under the conditions laid down in Article 59 of the Service Regulations.

(ii) The special leave may be supplemented, where applicable, by the necessary travelling time (see Rule 6(3)d)).

(iii) The child must be considered dependent within the meaning of Article 69 of the Service Regulations.

(b) Procedure

(i) The employee must provide the Office's medical adviser with a medical certificate containing the employee's name, the full name and date of birth of the ill child and the expected duration of the illness. The medical adviser will inform the Human Resources Department whether in their opinion the medical conditions of Article 59(3)(i) are met.

(ii) In the event of hospitalisation, the medical certificate must also state the dates on which hospitalisation will start or started and is expected to finish.

(iii) If the doctor consulted refuses to issue a medical certificate, the employee must supply the name and address of the doctor to the Office's medical adviser.

(c) Other conditions

(i) This leave may not be used in combination with or in addition to special leave for the serious illness of a child according to Article 59(3)(h) of the Service Regulations.

Rule 9

Article 59
Special leave

Death of the mother during maternity leave

(a) Entitlement

(i) A spouse is entitled to special leave amounting to the number of calendar days corresponding to the remaining maternity leave in the event of the death of the mother during maternity leave, if she is an employee.

(ii) If the deceased mother is not an employee, the remaining maternity leave is determined by applying the provisions of Article 61 of the Service Regulations by analogy.

(b) Procedure

The employee must provide the death certificate of the mother and the birth certificate of the child to the Human Resources Department.

(c) Other conditions

(i) This special leave may not be granted in addition to special leave for the death of a spouse according to Article 59(3)(d) of the Service Regulations.

(ii) This leave is granted in the event of the birth of a viable child.

Rule 10

Article 60
Home leave

(a) Entitlement

(i) Entitlement to home leave will begin to accrue from the effective date of appointment, or from the date of the change of duty station which has given rise to this entitlement.

(ii) One period of home leave will accrue in respect of each period of 24 months' service. Subject to the exigencies of the service, it may be taken at any time within that period but not before the expiry of any probation period. The date on which home leave is taken will not be taken into account in determining the date of the next period of home leave.

(iii) Any home leave not taken during the two-year period during which it accrues will be forfeited except in cases of force majeure, when the period will be extended by three months. No home leave may be granted during the four months prior to the date of termination of service as

defined by Article 50. Non-use of the home leave entitlement does not give rise to compensation.

(iv) Employees may be asked to take home leave in conjunction with travel on mission or change of duty station, due regard being paid to their and their family's interests.

(v) Where two employees who are married to each other are both non-nationals of the country of the place of employment but are of different nationality and both are serving in the Office or one in the Office and the other in a different Co-ordinated Organisation, they will each be entitled to home leave, either together in the same country if the home of either one is there, or separately in different countries if their homes are in different countries.

(b) Authorisation

Applications for home leave must be submitted to the Human Resources Department at least one month before the date of commencement of the leave. Home leave is granted on the condition that the employees concerned in fact travel to their home. Supporting evidence may be required.

(c) Home leave travel

(i) For journeys undertaken within Europe, the travel expenses to be reimbursed per person will normally be calculated at a flat rate in accordance with the following rules:

- for return journeys of 1 000 km or less which do not include a sea crossing and which are measured on the basis of the shortest usual route by rail or other land-based mode of public transport from the place of employment to the place of home leave, the amount will be calculated by multiplying the resulting length of the route, expressed in km, by 50% of the kilometric allowance given in Annex V to the Service Regulations and applicable in the country of employment of the employee. Half the amount calculated in this way will be reimbursed for children under twelve years of age;
- for all other journeys the amount will be calculated on the basis of half the "business class" or equivalent fare (allowing for any reductions for age) between two airports which are reasonably accessible from the place of employment and the place of home leave. The amount calculated in this way will be supplemented by an amount covering the journey to these airports in accordance with the conditions of the preceding paragraph. The total amount reimbursed will not be less than that corresponding to the reimbursement laid down in the preceding paragraph for a return journey of 1 000 km.

(ii) Notwithstanding the provisions of (i) above, any employee will be able to request reimbursement of actual expenses incurred. Except in cases of force majeure, applications must be submitted prior to the journey

concerned. Reimbursement will be made on the basis of vouchers and on condition that the journey undertaken corresponds to the shortest usual route by the most economical mode of transport, depending on the individual case concerned.

(iii) In cases of reimbursement of actual expenses incurred and if the journey to be taken necessitates travel by air, or if, for other duly justified reasons, the employee is authorised to travel by air, reimbursement will be calculated on the basis of the most economical fare unless special dispensation is granted by the President of the Office. For duly justified reasons, the Office may reimburse supplementary expenses arising from an alteration in fare resulting from a change in travel dates.

(iv) For intercontinental journeys, reimbursement will, in accordance with points (ii) and (iii) above, be made on the basis of actual expenses incurred.

(v) Where paragraph (a)(v) above applies, the cost of only one journey each will be refunded every two years (to both spouses respectively and to the dependent children) in respect of each family.

(vi) The cost of the return travel expenses in respect of any spouse and dependent children will be repaid to the employee, whether or not they travel at the same time, provided that they travel within the period laid down in paragraph (a)(ii) above, and that the employee takes home leave during that period.

(d) Repayment

(i) Where employees fail to take a period of home leave within the time limit set in these Rules, they will repay to the Office any travel expenses borne by it in respect of a member or members of their household for such leave.

(ii) Where employees have taken home leave in advance and their appointment terminates by resignation before the end of the relevant two-year period, they will repay a sum corresponding to eight working days' emoluments, plus the amount received in respect of travel expenses. The amount to be repaid will be reduced in proportion to the time actually served during the two-year period.

(e) Compensation for travel time

(i) Extra leave on the basis shown below will be granted when the distance, by the approved route, between home and place of employment, in either direction, exceeds 100 km:

100 - 400 km:	½ a day
400 - 800 km:	1 day
over 800 km:	1½ days

(ii) When the time taken to travel by the approved route between home and place of employment, in either direction and irrespective of kilometric distances, can be proved to exceed a certain number of hours, extra leave will be granted on the basis shown below:

4 - 8 hours:	½ a day
8 - 12 hours:	1 day
12 hours or more:	1½ days

(f) Home

(i) The home of an employee for the purpose of home leave will be determined in accordance with the provisions of Article 60(2).

(ii) In the absence of proof and in cases of doubt the President of the Office may fix the home in the capital of the contracting state of which the employee is a national.

Rule 11

Article 61
Maternity leave

(a) Duration

(i) An employee who is pregnant is, in accordance with Article 61 of the Service Regulations, entitled, on production of a medical certificate, to maternity leave on full pay starting not earlier than six weeks before the expected date of confinement shown on the certificate and ending not earlier than 14 weeks after the date of confinement provided that such leave is not less than 20 weeks. After childbirth, the birth certificate must be submitted to the Human Resources Department as soon as possible.

(ii) In the event of a multiple or premature birth or the birth of a handicapped child within the meaning of Article 69 of the Service Regulations, or where the pregnant woman has given birth to two or more viable children, or where the household already has at least two children in its care, the maternity leave remains at six weeks before the expected date of confinement but increases to 18 weeks after the date of confinement. Such leave may not be less than 24 weeks.

(iii) For the purposes of this article, a premature birth is a birth taking place more than six weeks before the expected date of confinement.

(iv) If she so wishes and provided, as confirmed by a medical certificate, that her state of health permits, the mother may continue working beyond the sixth week preceding the expected confinement and defer her maternity leave.

(v) An employee on maternity leave retains all her rights to remuneration, advancement, annual leave and home leave. Her post will not be declared vacant.

(vi) The employee continues to pay her personal contribution to the social security scheme and the pension scheme.

(vii) In the event of termination of service, except in the case of dismissal on disciplinary grounds, the employee who has produced the medical certificate referred to in paragraph (i) will be entitled to her emoluments up to the end of her maternity leave provided she does not enter the service of another employer.

(b) Extension of maternity leave

An extension of maternity leave on production of a medical certificate will be deemed to be sick leave.

Rule 12

Article 61a
Adoption leave

(a) Entitlement

(i) An employee who has lodged an application for the adoption of a child and started the adoption procedure is, in accordance with Article 61a of the Service Regulations, entitled to 20 weeks' adoption leave (24 weeks if the child is handicapped within the meaning of Article 69 of the Service Regulations).

(ii) If the legislation of the country of adoption, which is not the country of employment of the employee, requires one or both of the adopting parents to complete a course of instruction or a stay there, additional paid leave may be granted for the length of the course or stay.

(iii) Each child adopted confers entitlement to only one period of adoption leave. The period may start from the date on which the child is recognised as dependent within the meaning of Article 69(3) of the Service Regulations. It may not be added to any period granted for another adoption.

(iv) If both adopting parents are employees of the EPO, the adoption leave may be shared between them as they wish.

(v) If one of the adopting parents is not an employee of the EPO and takes comparable leave, the number of days of such leave is deducted from the adoption leave granted to the employee.

(vi) No adoption leave is granted if the spouse or the other adopting parent is in less than half-time paid employment. Instead, by analogy with the special leave for the birth of a child, the employee may be granted ten working days' special leave. This special leave must be

taken en bloc within twelve months of the date on which the child is recognised as dependent within the meaning of Article 69(3) of the Service Regulations.

(vii) Leave is not granted if, prior to the adoption, the child was resident with or already mainly and continuously supported by the employee, the employee's spouse or the other adopting parent.

(b) Procedure

(i) The employee must provide the Human Resources Department with the adoption certificate or, pending the issue of such a certificate, an official document that proves legal responsibility for the child.

(ii) An application for adoption leave must be submitted in writing by the employee, via the line manager, to the Human Resources Department one month prior to the requested starting date of the adoption leave.

(iii) If additional paid leave within the meaning of paragraph (a)(ii) is requested, all the necessary supporting documents issued by the relevant national authorities must be submitted.

(iv) If one of the adopting parents does not work at the EPO and is entitled to comparable leave, a declaration must be provided stating the length of leave granted. If this leave has partially or in its entirety not been used or will not be used, the employee must submit a statement to the Human Resources Department giving the necessary details.

(v) Any document required for the granting of adoption leave and/or additional special leave must be presented in one of the official languages. Where applicable, the employee must provide any original documents in a non-official language, together with a certified translation into an official language of the EPO.

This Circular enters into force on 1 January 2023.

Munich, 22.12.2022

The President of the European Patent Office
António Campinos

Circular No. 34
(28 March 2012, 30 July 2015[1])

Guidelines for applying Article 56(2) of the Service Regulations for permanent employees of the European Patent Office (ServRegs) concerning part-time working

Article 1
Reasons

Authorisation to work part-time may be granted in the following cases:

(a) in order to look after at least one child below the age of 16;

(b) in order to attend to a child with a disability requiring continuous care;

(c) in order to assist the spouse or a parent of the permanent employee or a parent of the permanent employee's spouse, where his/her state of health requires the presence of the permanent employee as a result of an accident or a serious illness;

(d) in order to allow a smoother transition to retirement for permanent employees who have reached the age of 55;

(e) as an exception, in other cases adequately justified.

Article 2
Authorisation

(1) Authorisation to work part-time is conditional upon:

   (a) such part-time working being deemed compatible with the smooth functioning of the service, and
   (b) the permanent employee's appointment being confirmed on expiry of his/her probationary period (Article 13 ServRegs).

(2) Every effort will be made to accommodate the wishes of individual permanent employees concerning a reduction in their working hours.

(3) In principle, any figure of or above 50% of the normal 40-hour working week may be granted.

(4) The spread of working hours over the working week must be indicated together with the request for authorisation to work part-time. This spread may be changed by agreement with the immediate superior.

1 See CA/D 10/14 Article 61 and 62.

Article 3
Procedure

(1) Applications for part-time working must be submitted to the immediate superior at least two months before the requested starting date, unless otherwise agreed by the immediate superior. The minimum notification period, however, may not be less than one month.

(2) Authorisation for part-time working will be granted by the immediate superior, upon application by the permanent employee, for a period of six months. Unless the permanent employee has given notice two months prior to expiry of each six-month period, it will be assumed that the reasons for which part-time working was granted continue to apply and the authorisation will be extended without request on the same conditions for a further period of six months.

(3) If the reasons for which the authorisation was granted no longer apply, the authorisation may, at one month's notice, be withdrawn by the immediate superior before expiry of the period for which it was granted.

(4) Likewise, at the request of the immediate superior and in agreement with the permanent employee, the authorisation may be withdrawn or changed before expiry of the period for which it was granted. If the authorisation is changed, the amended authorisation will remain applicable for the remainder of the six-month period and may be extended thereafter in accordance with Article 2.

Article 4
Entitlements

(1) The period of home leave will be correspondingly reduced.

(2) Entitlement to reimbursement of travel expenses will remain unchanged.

Home leave for part-time staff[1]

No special regulations in Office practice

Under Article 60 ServRegs, some EPO staff are entitled every two years to home leave, i.e. eight working days' extra holiday plus travel time (Circular No. 22, Rule 9 (e)).

The home leave entitlement of staff working part-time is correspondingly reduced (see Circular No. 34, Article 4). In practice, at all EPO sites, such staff are also granted a period of eight consecutive working days plus travel time, irrespective of any free (part-) days during that period under their individual part-time arrangements.

1 Published in Gazette No. 10/06.

Circular No. 38
(25 July 1979)

Overtime

The President of the Office has decided that as from 1 June 1979 entitlement to compensation for one hour of overtime worked on a Saturday shall be one hour and a half (Article 57 (3) of the Service Regulations).

Circular No. 78
(10 December 1980)

Inward transfer of pension rights [1]

1 Details are contained in the brochure entitled „Information on transferring pension rights" which was issued by Pension Administration in July 2004.

Circular No. 82
(30 July 2015[1])

Guidelines for determining whether a child is dependent within the meaning of Article 69(3)(a) and (c) of the Service Regulations

Decision of the President of the European Patent Office of 23 November 2009 with effect from 1 March 2010

Rule 1

(1) Subject to paragraph (2), a legitimate, natural or adopted child (Art. 69(3)(a) ServRegs) shall be assumed to be mainly and continuously supported by the employee or his spouse if the child is not gainfully employed (Rule 3) **and** is

(a) under 18 years of age, **or**
(b) has not reached the age of twenty-six and is receiving educational or vocational training, **or**
(c) prevented by serious illness or invalidity from earning a livelihood, irrespective of age.

(2) Where a child fulfilling the conditions of paragraph (1) is married or in the custody of a person other than the employee or his spouse, and not resident with the employee or his spouse, the child shall be assumed to be "mainly and continuously supported" by the employee or his spouse if the financial support provided by the employee or his spouse equals at least the following amounts:

- for one child: 6% of the employee's basic salary plus the amount of the dependants' allowance, or 25% of the basic salary of Grade G1 step 4 if this amount is lower;
- for two children: 9% of the employee's basic salary plus twice the amount of the dependants' allowance, or 45% of the basic salary of grade G1 step 4 if this amount is lower;
- for three children: 12% of the employee's basic salary plus three times the dependants' allowance, or 65% of the basic salary of grade G1 step 4 if this amount is lower;
- for each additional child these amounts shall be increased accordingly.

Rule 2

Any other child normally resident with the employee or his spouse (Art. 69(3)(c) ServRegs) shall be assumed to be mainly and continuously supported by the employee or his spouse if, in addition to fulfilling the conditions set out under Rule 1(1), the child is not married or under the parental authority of a third person,

1 See CA/D 10/14 Article 61 and 62.

except where the child's spouse or the third person is, for reasons beyond his control, unable to support the child.

Rule 3

A child shall be assumed to be gainfully employed within the meaning of Rule 1, if he or she receives,

(a) during a period of more than four consecutive months,

(b) out of gainful employment,

(c) a monthly income, after deduction of contributions to compulsory social security schemes but before deduction of national income tax, equal to or more than 50% of the amount of the basic salary of grade G1 step 4 (scale for the child's country of residence). Where the child is not resident in one of the member states, a corresponding monthly income shall be fixed using the relevant purchasing power coefficient applied by the European Union for the child's country of residence. Where such a coefficient is not available, a corresponding monthly income shall be fixed, taking into account the standard of living in that country.

Circular No. 83
(19 February 1981)

Guidelines for the granting of the language allowance

Article 75 (Service Regulations)
Language allowance

(1) Permanent employees who feel they meet the requirements, laid down in Article 75, for entitlement to one or two language allowances may apply in writing to that effect to the Principal Director for Personnel through their superiors.

(2) The employee must state in his application:

(a) his grade, job and the specific post occupied;
(b) his mother tongue;
(c) the official languages he is actually required to use in the course of his duties and the type of use (oral; written; contacts within or outside a section, department) and frequency.

(3) The superior will forward the employee's application to the Principal Director for Personnel.

The former will note on the application his reasons for considering that it would be in the interests of the Office to grant one or two language allowances to the employee and will confirm the accuracy of the particulars given in the application.

(4) The Principal Director for Personnel will decide whether the application meets the requirements laid down in Article 75. In particular, he will establish that it is in the interests of the Organisation. He will ascertain especially whether knowledge of the languages is required by the job description of the employee or whether such knowledge, although not indispensable, enables the employee more adequately to meet the requirements of his post by substantially improving the quality and quantity of the work performed. If he feels the application cannot be granted, he will inform the employee and his superior accordingly.

(5) The allowance will be granted only if the applicant has undergone a language test organised by the Office.

(6) Language tests will be organised twice yearly in each place of employment. Employees will be notified, not later than one month after submission of their application, of their admission to the tests; in that event they will be given at least five working days' notice of the tests. Participation in two successive tests for the same language will not be permissible.

(7) The tests, which will differ for each category, will comprise:

(a) the writing of a letter, memorandum or report;
(b) giving a brief talk.

The employees will be informed of the subjects, at the time of the test, in the official language of their choice.

(8) The Principal Director for Personnel will inform the applicant and his superior of the result of the test.

(9) The allowance will be granted to employees obtaining satisfactory results, as from the first day of the month in which the tests were held. The superior will be informed.

(10) These guidelines will enter into force on 5 February 1981.

Circular No. 132
(26 June 1984)

Assignment of earnings to banks and other financial institutions

Reasons have arisen that make it appropriate to inform employees of Office procedure with regard to the assignment and attachment of earnings:

1. Assignment of earnings to banks and financial institutions on taking up loans

Assignment of earnings is a private legal transaction which does not involve EPO immunity. The Office, in consequence, normally automatically recognises an assignment of earnings made known to it. The proportion of an employee's earnings assigned is retained and paid over to the creditor, after the employee concerned has been informed that the deed of assignment has been presented and is to be complied with by the Office.

2. Attachment of earnings

Attachment of earnings involves measures of national sovereignity which may in principle touch upon the question of Office immunity. However, the sole purpose of this immunity is to ensure that the Organisation is able to function unimpeded and that its employees enjoy complete independence, and not give the latter personal advantage (see Article 19 (1) of the Protocol on Immunities).

In cases of attachment of earnings, therefore, the Office as a general rule waives its immunity regarding enforcement of the attachment order under Article 3 of the Protocol on Immunities in conjunction with Article 3 of the Headquarters Agreement with the Federal Republic of Germany or the Agreement with the Kingdom of the Netherlands concerning the branch at The Hague.

Circular No. 135
(New version dated 14 June 1999)

Recently, application of Circular No. 135 has given rise to some confusion. The version dated 6 August 1984 has therefore been revised.

The new version makes it clear that supplementary activities of any kind (including preparation and travel time), and acceptance of payment for them, can be approved only if they take place outside working hours.

The General Advisory Committee has given a unanimously favourable opinion on the new wording.

The following version, in which the substantive amendments are printed in bold type, takes immediate effect:

Acceptance of payment by permanent employees of the European Patent Office

- Regulations supplementing Article 14(2) of the Service Regulations -

(1) Requests for approval of a supplementary activity for which payment is made must be submitted to the President via personnel department.

(2) In the case of supplementary activities of any kind (such as lecturing, teaching or writing), acceptance of payment by the permanent employee will generally be allowed if

- the activity (including any preparation and travel time) takes place outside working hours and
- the Office incurs no costs (eg travel or subsistence expenses) from it.

This also applies to activities directly associated with the permanent employee's official duties or position.

The permanent employee must submit the necessary declarations together with the request for approval.

If the above conditions are not met, but the activity as such has been approved, any remuneration must be surrendered to the Office.

(3) Normal Office duties must not be affected by supplementary activities of the type referred to. For this reason they are permissible only to a limited extent.

Attention is also drawn to the restrictions laid down in Article 16 of the Service Regulations.

ANNEX[1]

THE PRESIDIUM OF THE BOARDS OF APPEAL OF THE EUROPEAN PATENT OFFICE,

CONSIDERING that under Article 23, paragraph 3, of the European Patent Convention (EPC) Members[2] shall in their decisions not be bound by any instructions and shall comply only with the provisions of the EPC,

CONSIDERING that under principles of procedural law generally recognised in the Contracting States everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law,

CONSIDERING the importance of public confidence in the independence of the judiciary and the rule of law,

HAVING REGARD to the solemn undertaking of Members to perform their duties in accordance with the EPC and the principles of procedural law generally recognised in the Contracting States, to act, in taking decisions, without respect of persons, to act solely in the interests of truth and justice, and to maintain strict secrecy concerning the Boards' deliberations,

HAVING REGARD to the declaration of the Administrative Council and the President of the Office to adhere to general legal principles and human rights, and to their full endorsement of the separation of powers and the judicial independence of the Boards of Appeal,

HAVING REGARD to the organisational autonomy of the Boards of Appeal Unit as confirmed by the structural reform of the Boards of Appeal,

ON A PROPOSAL from the President of the Boards of Appeal, submitted after consulting the Boards of Appeal Committee,

HAS ADOPTED, in accordance with Rule 12b, paragraph 3(b), of the Implementing Regulations to the EPC, the following

1 Amended by decision of the Administrative Council CA/D 21/21.
2 All terms and pronouns referring to persons in this Code of Conduct apply irrespective of gender.

CODE OF CONDUCT FOR THE MEMBERS OF THE BOARDS OF APPEAL AND OF THE ENLARGED BOARD OF APPEAL

Article 1
Framework

This Code of Conduct is without prejudice to regulations adopted in accordance with Article 10, paragraph 2(c), and Article 33, paragraph 2(b), EPC, in particular Article 1, paragraph 4, and Article 93 of the Service Regulations for permanent employees and other employees of the European Patent Office.

Article 2
Scope

This Code of Conduct applies to Members including Chairs of the Boards of Appeal and of the Enlarged Board of Appeal of the European Patent Office (hereafter "Members") and includes standards to be upheld by Members.

Article 3
Principles

Members have complete independence in the exercise of their judicial duties, and perform them with integrity, impartiality, loyalty, diligence and discretion, in accordance with the provisions set out in this Code of Conduct.

Article 4
Independence and integrity

(1) Members shall perform their duties with complete independence and integrity, without taking account of any personal or national interest. They shall exercise their judicial function independently on the basis of their own assessment of the facts and understanding of the law, without regard to any extraneous influences, inducements, pressures, threats or interference, direct or indirect.

(2) Members shall neither seek nor follow any instructions, neither from the organs of the European Patent Organisation and their representatives, nor from the governments of the Contracting States or any other private or public entities or persons.

(3) Members shall not accept gifts or favours of any kind which call into question their independence.

(4) When acting or expressing themselves through whatever medium or when taking part in any political activity, Members will refrain from conduct which would undermine the public perception of their independence and integrity.

Article 5
Impartiality

(1) Members shall perform their duties impartially without favour, bias or prejudice.

(2) Without prejudice to Article 24 EPC, they shall not be involved in dealing with a case in which they have any personal interest.

(3) Members shall conduct themselves, both in and out of the Boards of Appeal, in a manner which maintains the confidence of the public and the parties in their impartiality. Accordingly, when acting or expressing themselves, through whatever medium, they conduct themselves in a manner which does not adversely affect the public perception of their impartiality.

(4) Members shall treat all persons who appear before them equally. They are aware of and respect diversity in society.

Article 6
Loyalty and diligence

(1) Members shall be loyal to the rule of law in accordance with the solemn undertaking to perform their duties in accordance with the EPC and the principles of procedural law generally recognised in the Contracting States. Accordingly, Members will exercise the powers entrusted to them within the limits of the EPC.

(2) Members perform all judicial duties diligently, fairly, efficiently, and without undue delay.

(3) Members shall treat parties, representatives, witnesses and others with whom they deal in an official capacity with dignity and respect while endeavouring to maintain order and decorum in all proceedings.

Article 7
Discretion

(1) Members shall preserve the secrecy of the deliberations.

(2) Members shall exercise the utmost discretion with regard to all information acquired in relation to their judicial function.

Article 8
External activities

(1) Members may engage in external activities only if they are compatible with their judicial duties arising under this Code of Conduct.

(2) Members may participate in external activities relating, inter alia, to the dissemination of European patent law and to dialogue with national and international courts or tribunals. In this respect, Members may participate in teaching activities and publications, conferences, seminars or symposia and in organisations and associations representing the interests of judges.

(3) If Members assume duties in the legal, cultural, artistic, social, sporting or charitable fields or in teaching or research establishments, they shall undertake not to engage in any managerial or administrative activities which might compromise their independence or which might give rise to a conflict of interest.

(4) Members who wish to engage in an external activity which is related to their judicial function or which may affect the performance of their judicial duties shall, prior to undertaking the activity, inform the President of the Boards of Appeal thereof. Any external activities for which payment of any kind is made shall be subject to the prior approval of the President of the Boards of Appeal, unless these relate to purely non-commercial private activities.

(5) Publications by Members under Article 24 of the Service Regulations for permanent and other employees shall be subject to the prior permission of the President of the Boards of Appeal. Permission may only be refused with the agreement of the Presidium of the Boards of Appeal. The copyright royalties arising from publications, for which permission has been given, do not require additional approval under paragraph 4.

(6) Paragraphs 4 and 5 of this Article shall not apply to Members of the Enlarged Board of Appeal appointed under Article 11, paragraph 5, EPC.

Article 9
Application of the Code of Conduct and Advisory Committee

(1) The President of the Boards of Appeal, assisted by the Advisory Committee, shall be responsible for ensuring the proper application of this Code of Conduct.

(2) If the President of the Boards of Appeal is of the considered view that a Member has failed to comply with this Code of Conduct, a reasoned opinion as to whether or not this is the case shall be requested from the Advisory Committee.

(3) A Member who wishes to engage in an external activity may request a reasoned opinion from the Advisory Committee as to whether or not this would be appropriate.

(4) Requests for a reasoned opinion of the Advisory Committee shall be treated with confidentiality. Before giving its opinion, the Advisory Committee shall provide the Member concerned and the President of the Boards of Appeal with the opportunity to comment. The opinion shall be made available to the Member concerned and the President of the Boards of Appeal.

(5) The Advisory Committee shall consist of seven Members. Three members of the Advisory Committee shall be appointed by the President of the Boards of Appeal from among the Members of the Enlarged Board of Appeal appointed under Article 11, paragraph 5, EPC. Four Members of the Advisory Committee shall be appointed by the Presidium of the Boards of Appeal from among the Members of the Boards of Appeal, including at least one Chair.

For each Committee member, an alternate is designated according to the same rules. The Members of the Advisory Committee shall be appointed for a term of two years and may be re-appointed.

(6) The Advisory Committee shall adopt its Rules of Procedure and shall designate its Chair.

(7) When dealing with requests under paragraph 2, the Advisory Committee shall act in a five-member panel. The panel shall be composed of the three Members appointed from among the Members of the Enlarged Board of Appeal appointed under Article 11, paragraph 5, EPC, with one of them acting as the Chair in the proceedings, and two Members appointed by the Presidium of the Boards of Appeal, including at least one Chair.

(8) When dealing with requests under paragraph 3, the Advisory Committee shall act in a three-member panel. The panel shall be composed of three Members appointed by the Presidium of the Boards of Appeal, including at least one Chair.

(9) The procedure before the Advisory Committee shall be a written procedure. Opinions shall be adopted by a majority vote.

(10) Failure to comply with this Code of Conduct may only make a Member liable to disciplinary action if the conduct in question also constitutes a failure to comply with obligations under the Service Regulations for permanent and other employees of the European Patent Office within the meaning of Article 21, paragraph 1, and Article 93, paragraph 1, thereof. Paragraph 2 is without prejudice to the initiation or conduct of any disciplinary proceedings under the Service Regulations for permanent and other employees of the European Patent Office.

Article 10
Freedom of Expression

(1) Members shall exercise their freedom of expression and freedom of association and assembly in such a manner as to preserve the dignity of their judicial office and the impartiality and independence of the Boards of Appeal.

(2) Members shall exercise restraint when faced with public criticism of cases in which they are or were involved themselves. They shall primarily express their opinion in the reasoning of their decisions.

Article 11
Duties of the Members after ceasing to hold office

After ceasing to hold office, Members shall continue to be bound by their duty to behave with integrity and discretion. Within two years of leaving the service, they shall not take up an occupational activity, which is related to the work they carried out during the last three years of their service and which may adversely affect the public perception of their independence and impartiality during their term of

office as Members. For Members who have served only five years or less, the aforementioned two-year period is reduced to one year after leaving the service.

Article 12
Entry into force

This Code of Conduct shall enter into force on 1 July 2022. It shall replace the Code of Conduct contained in document CA/105/95.

Done at Haar on 23 November 2021

For the Presidium of the Boards of Appeal

The Chair
Carl JOSEFSSON

Communiqué No. 22
(05 April 2007)

Rights and obligations of EPO staff

Certain isolated cases brought to my attention recently oblige me to remind staff that membership of the international civil service brings with it various rights and obligations. These are laid down in Title II of our Service Regulations.

Article 14 ServRegs ("general obligations") requires staff to work and conduct themselves solely with the interests of the Organisation in mind. Article 15 ServRegs sets out the special obligations of members of the boards of appeal. And under Article16(1) ServRegs staff must refrain from "any act and, in particular, any public expression of opinion which may reflect on the dignity of their office"[1].

As intellectual property increasingly becomes a mainstream issue in society, individual EPO staff members are often invited to contribute to public events, seminars, forums and the like, or to give their opinions, orally or in writing, on topical issues involving the European Patent Organisation.

To meet this growing public demand for objective information reflecting the Organisation's official views, the Office has set up a number of key bodies and units (such as the Patent Academy, Communication Department, the Issue Management Group and the EPC 2000 Steering Committee) to devise and channel the Office's contributions in this area.

Permission for individuals engaging in such activities is regulated in particular by Articles14 and 20 ServRegs and Circular 135. It may be withdrawn or, more generally, individuals may be required to discontinue activities which are incompatible with Article16(1) ServRegs. If they fail to do so, the consequences can be severe (see Article16(3) ServRegs).

It goes without saying that for EPO staff to contribute to public awareness about complex patent issues is a good thing. Many highly committed staff devote time and energy, even in their leisure hours, to making such contributions. This is recognised and appreciated by the Office and the wider world.

Staff must also realise however that any individual expression of opinion in a public forum that openly attacks a decision taken by the Office or the Organisation (e.g. the Administrative Council) is by definition detrimental to the dignity of their office. Individual staff must refrain from such public criticism, either orally or in writing, because it is incompatible with Article16(1) ServRegs.

On a final note, this communiqué does not of course in any way call into question the freedom of association guaranteed by Article 30 ServRegs.

Alain Pompidou
President

1 The word 'office', in this context, refers of course to the individual's professional function, not to the EPO as such.

Directive from the President regarding publications in the name of the Office

(25 October 1996)

1. The following applies to all publications in the name of the Office, such as scientific and legal studies, editorial contributions and comments in newspapers and magazines, and to the dissemination of public portrayals of the Office and its activities:

   - The purpose, content and timing of the planned publication and the arrangements for its distribution must be agreed beforehand with the Public Relations Directorate (Dir. 5.0.1, Mr. Nowak). The consent of Office management may also be required.

2. Modern on-line information and communication services such as the INTERNET or COMPUSERVE open up a whole range of additional publishing facilities. Please therefore note the following:

   - A reasoned request for access to such a service must be submitted to the relevant ISDS department and may be granted only for official purposes. IS is responsible for the technical arrangements and for Office-wide co-ordination.
   - Principal Directorate 5.4 looks after the technical side of the Office's "Home Page" on the INTERNET (HTTP://WWW.EPO.CO.AT/EPO/). Users are not allowed to set up their own "Home Pages".
   - Responsibility for the content of the "Home Page" lies with the Public Relations Directorate, which will liaise with the Directorates-General concerned.
   - Views expressed by staff in on-line discussion forums could be ascribed to the Office. Staff should bear this in mind, seeking clarification from their superiors and, if necessary, Directorate 5.0.1.

I. Kober
President

Circular No. 238
(5 March 1996, 4 September 2013[1])

Passes

1. **Red passes**

The planned issue of new red passes by the German Foreign Office in Bonn was first announced in Gazette 10/94. This announcement gave rise to lively discussion in the Office and to extensive correspondence between the President and management on the one hand and the staff representatives on the other. In-depth talks on these passes were held with the staff representatives, and the subject was on the agenda at two General Advisory Committee meetings. The issues have now been resolved.

After some delay due to production bottlenecks at the printers, the first batch of new passes has now arrived. These will be distributed, following notification from the personnel department, to the several hundred members of staff in Munich and Berlin who ordered them. Under the relevant provisions, all **non-German** staff and non-German family members[2] (minimum age: 16 years) are **entitled to apply** for the pass.

As the German authorities are generally more familiar with these new identity cards - which was not the case with the black passes, previously the only ones issued - holders should benefit from considerable practical advantages. In certain situations, not having a red pass might even prove a drawback.

2. **Vehicle registration numbers**[3]

3. **Black passes**

Black passes will continue to be issued by the Office (Article 8(2) of the Headquarters Agreement between the EPO and the Federal Republic of Germany), and existing ones will retain their validity. For **German members of staff**, the black pass remains the **only one** available. As stated above, they cannot be issued with the red pass.

1 Update of the contact details.
2 read: "... and their non-German family members", see letter from the German Foreign Office dated 18 August 1997.
3 Replaced by Circular No. 254:
The German Foreign Office in Bonn has reviewed the question of allocating special vehicle registration numbers and - contrary to its earlier opinion - has come to the conclusion that EPO staff (like staff at other international organisations in Germany) are not entitled to be allocated BN vehicle registration numbers. The Office has studied this legal advice and come to the conclusion that it must be accepted.
As a result, BN vehicle registration numbers can unfortunately no longer be allocated. This will not however disadvantage those who already have a BN registration number, since they are not required to reregister their vehicles.

At the Office's instigation, the **Foreign Office** has said that it will in future be willing to sign the black passes for **German staff**. However, this will **not** be **compulsory** (the staff representatives asked for this to be made clear), and German staff may apply if they wish for **signature by the Office**. The black passes of non-German staff and family members will in any case be signed by the Office, as the Foreign Office is not prepared to sign black passes in addition to issuing new red ones.

Circular No. 238 - addendum
(29 April 1996, 4 September 2013[1])

Black passes for non-German family members

In Circular No. 238 dated 5 March 1996, which was drawn up in agreement with the staff representatives, Principal Directorate Personnel announced details of the issue of both the red and the black passes.

Since then, the Munich Local Section has requested that - in contrast to present practice - black passes be issued not only to all staff and non-German family members over 16 years of age as before, but also to German family members and non-Germans under 16.

The present practice is based on the fact that children under 16 are not obliged to carry an identity card (which is why the Foreign Office is not issuing the new red passes to that age group) and that none of the privileges attached to the black pass apply to German family members. This has been expressly confirmed by the Foreign Office in Bonn.

It cannot, however, be denied (and has been maintained by the staff representatives) that some form of identification may be useful from a certain age onwards for **non-German family members below the age of 16** who frequently cross the German border on their own. In such cases in the past, the Personnel Department has provided written confirmation of the child's status.

On receipt of a **reasoned request**, however, Principal Directorate Personnel will in future issue black passes signed by the Office for non-German family members from the age of 6. Staff interested in obtaining such a pass should submit a request, giving reasons, to the appropriate HR interlocutor.

1 Update of the contact details.

Circular No. 244
(27 January 1997)

Criteria for the granting of home loans

With a view to making better use of the funding set aside for home loans, the President in July 1996 asked the General Advisory Committee (GAC) to consider a proposal aimed at giving priority to applications from staff who have not yet already been granted the maximum loan provided for under Article 3(2) of the "Regulations for the Grant of Home Loans".

The issue was discussed at four successive GAC meetings between August and November 1996 without the Committee being able to arrive at a unanimous opinion. The only solution acceptable to the GAC members appointed by the Staff Committee would involve increasing the amount of funding set aside in the budget.

This funding - which requires Administrative Council approval - has been set at DEM 18.55m for 1997 and DEM 13.8m from 1998 onwards. This gradual discontinuation of further funding will mean that in future the system will be funded only from repayments on existing loans. This solution was adopted by way of a compromise because it was acceptable to the delegations, who had initially favoured doing away with the home loans scheme altogether.

Before considering the possibility of abandoning this compromise, the President felt it was essential to gain a clear picture of actual need. An initial study showed that the annual rise in the number of applications was attributable in part to the fact that a growing number of staff who had already paid off an initial loan were applying again in order to purchase another property or refurbish an existing one.

To use home loans in this way - as a source of permanent and renewable credit - runs counter to the purpose of the scheme and penalises first-time applicants. The President's proposal was therefore intended to establish criteria for the granting of loans that were more in line with the scheme's purpose, which is to help staff entering the property market at their place of employment.

It is regrettable that the staff representatives do not share this concern, but the President feels it is his responsibility to ensure that priority be given to staff taking advantage of the home loans scheme for the first time.

For this reason, in line with the objectives of the home loans scheme - as re-affirmed in CA/22/88 and CA/62/88 - and in application of the provisions of Article 12(1) of the Regulations for the Grant of Home Loans, and having consulted the "General Advisory Committee and the Home Loans Committee", the President has adopted the following directives:

Rule 1
Priority criteria

The following priorities shall apply when applications for home loans are processed:

First priority:

Applications for loans to finance a main residence at the place of employment, provided the total amount of loans granted by the Office does not exceed the maximum provided for in Article 3(2) of the Regulations for the Grant of Home Loans.

Second priority:

Applications for loans to finance a retirement residence, provided the total amount of loans granted by the Office does not exceed the maximum provided for in Article 3(2) of the Regulations for the Grant of Home Loans.

Third priority:

Applications to reborrow to finance a main residence at the place of employment and for an amount equal to or less than the sum repaid following disposal of the property in respect of which a loan had been granted by the Office.

Fourth priority:

Applications to reborrow to finance a retirement residence and for an amount equal to or less than the sum repaid following disposal of the property in respect of which a loan had been granted by the Office.

Fifth priority:

All other applications.

Rule 2
Procedure for applying priorities

Between 1 January and 30 September, first-priority applications which have been approved by the Home Loans Committee will be processed in the order submitted. From 1 October, funding still available for the current accounting period will only be paid out in respect of applications for which payment can be made before the end of that period and in accordance with the above priorities.

Rule 3
Transitional measure

The criteria used for the granting of home loans in 1996 will continue to apply to applications submitted and registered before 20 January 1997.

Rule 4
Transfer of loans

In application of Article 6(5) of the Regulations for the Grant of Home Loans an employee disposing of a property financed with a loan from the Office in order to acquire a new one may be authorised to transfer the amount of loan outstanding on the first property to the second. Such cases, which have no effect on the budget funding available, do not fall within the above priorities.

Rule 5
Date of effect

These directives apply to all applications still awaiting a decision on whether to grant a loan.

Circular No. 262
(1 December 2000, 1 January 2008)

Guidelines on personal files for EPO employees

1. General

1.1 For the purposes of these guidelines, a personal file shall be the file referred to in Article 32 of the Service Regulations (ServRegs). Documents not subject to that article, such as those relating to duty travel, annual leave, sick leave, home leave, home loans, overtime and internal job applications, as well as other general correspondence, shall be stored separately.

1.2 Responsibility for administration of personal files shall rest with the Personnel Department.

1.3 Authority to consult the personal file of a current or former employee shall be the strictly personal right of its subject or his successors in title. Unless the legitimate interests of the Office dictate otherwise, a third person may, at the written request of the current or former employee or one of his successors in title, be authorised in a specific case to consult all or part of the personal file in question (or to take part in the consultation).

1.4 The right to examine documents contained in a personal file for official purposes shall be strictly reserved to persons who, by virtue of the duties they perform within the Office, legitimately have the need to do so. Such examinations shall be restricted to those documents which are relevant to the stated official purposes.

1.5 Any person authorised to consult another person's personal file or to examine the documents it contains is obliged to respect confidentiality in the use of any information thus obtained.

If said person is subject to the Service Regulations, failure to comply with this obligation will be viewed as professional misconduct within the meaning of said regulations.

For any other person, authorisation to consult a personal file or to examine the documents it contains may be granted only after said person has given a written undertaking to respect the confidentiality of the information thus obtained and has acknowledged receipt of the text of the present guidelines.

1.6 The Personnel Department shall maintain both a register recording the persons authorised to consult personal files and an automated self-registering audit trail of personal file access. The audit trail shall record the time and date of the consultation, the identity of the person consulting the personal file and the section consulted. Individual staff may view the

register of persons authorised to consult their personal file. The audit trail for their personal file shall be available to staff for individual consultation in the Personnel Department.

1.7 The Personnel Department shall be responsible for producing and certifying paper copies of documents in the personal file at the request of the employee concerned or for the internal administrative procedures of the Personnel Department. Paper copies may only be made for official purposes by the Personnel Department and shall be destroyed once they have served their purpose.

1.8 An employee may request to have documents added to his file.

1.9[1] The personal file shall be stored electronically. Every member of staff may view his personal file via a personal access facility from any work station located within the EPO. All other means of access shall be restricted to work stations either located within the Personnel Department area or to other work stations as authorised for a limited period of time by the Personnel Department. The EPO Data Protection Guidelines shall apply.

2. Structure of personal files

The personal file shall be divided into four sections (A/B/C/D) and shall be administered by the Personnel Department in a standard format and arranged by document date in chronological order.

Section A Recruitment
Document
Relevant job application documents (application form, CV, proof of previous work experience, diploma)
Evidence of nationality
Certificate of good conduct or equivalent declaration
Evidence of military or comparable service or declaration of exemption
Proof of physical fitness under Article 8(d) ServRegs
Offer of post and related correspondence
Calculation of experience for recruitment level and promotion
Decision (and any subsequently amended decision) on place of home leave and place of recruitment, including evidence
Certificate of recruitment
Acceptance letter
Contract signed by both parties (for contract staff only)
Other documents relevant to recruitment

1 Amended by decision of the President from 28 January 2014.

Section B Assignment and administrative status
Document
Decision on probationary period
Letter and certificate confirming appointment and calculation of seniority
Letter and certificate confirming promotion and calculation of incremental step on promotion
Decision to grant acting allowance
Decision to grant language allowance
Decision on internal transfer and transfer to another EPO location
Extension of contract
Part-time work and return to full-time work
Parental, family and unpaid leave and request to remain in the EPO social security system
Administrative status and secondment
Administrative findings of the Medical Committee
Reintegration
Instructions relating to conduct in service
Approval of supplementary activities
Decisions on disciplinary matters
Termination of service - letters and decisions (dismissal, resignation, retirement, invalidity, end of contract)
Other documents relevant to assignment and administrative status

Section C Remuneration, allowances
Document
Family certificates (e.g. birth certificate, marriage certificate/certificate of registered partnership, childbirth certificate, divorce certificate) and decision under Article 69 ServRegs
Death certificate
Bank loan declaration
Decision to grant expatriation allowance
Decision on inward transfer of pension rights to EPO

Declaration relating to EPO death insurance
Document concerning change of name
*Documents relevant to the Salary Savings Plan
Other documents relevant to remuneration and allowances
*Inserted by decision of the President

Section D Probation and staff reports, evidence of training and other documents relevant to promotion
Document
Staff reports (probation, full, simplified)
Written warnings associated with staff reports
Evidence of training (including language certificates etc.)
Additional diplomas (after entry into service)
Suggestion scheme awards
Other documents relevant to probationary period, reporting, training, promotion

3. Electronic system

3.1 The documents recorded in the electronic personal file shall be listed in a table of contents arranged in date order (YYYY-MM-DD) and shall be assigned to one of the sections (A/B/C/D). The number of pages and a description shall be indicated for each document.

3.2 Apart from documents relating to Article 96 ServRegs, documents deleted from the personal file shall follow an audit trail.

3.3 Original paper documents for inclusion in the personal file shall be returned to the employee after scanning. If original documents relating to education and previous employment are needed again for official purposes, the employee may be asked to re-submit them to the Personnel Department.

3.4 The electronic system and any access authorisations shall be registered with the Data Protection Officer.

4. Retention period

Electronic personal files shall be retained permanently. Back-up copies of scanned files shall be maintained by the Information Management Department and shall be treated with the highest level of confidentiality.

5. Transitional provisions

(a) These guidelines shall apply to new files. Old files shall be converted to the electronic system within a period of two years from the entry into force of these guidelines.

(b) During the transitional phase, the scanning of old files shall take place step by step on a monthly basis. During that phase, staff for whom the files have already been converted shall be asked by the Personnel Department to access their electronic personal file to verify and confirm its contents. A reasonable amount of time shall be granted for this purpose. The original documents shall be returned to the employee after confirmation that the electronic version can replace the original paper file.

(c) As long as a paper personal file has not been converted to an electronic personal file, the provisions of Circular No. 262 in the version that entered into force on 1 January 2001 shall remain applicable to that file.

(d) Documents shall be scanned and numbered in batches for each of the sections A/B/C/D.

6. Entry into force

These guidelines shall enter into force on 1 January 2008.

Curt Edfjäll
Vice-President DG 4

Circular No. 266
(14 November 2001, 30 July 2015[1], 1 January 2019, 1 July 2020, 19 December 2024)

Procedure to be followed and criteria to be applied for assessing the degree of reliance on long-term care pursuant to Article 83b of the Service Regulations for permanent and other employees of the European Patent Office and Rule 11 of its Implementing Rules

Preamble
These rules are laid down pursuant to Article 83b, Article 89 and Article 90 of the Service Regulations (ServRegs) for permanent and other employees of the European Patent Office and Rule 11 of the Implementing Rules to Article 83b ServRegs, following consultation of the General Consultative Committee. The criteria are based on a proposal from the external manager of the scheme.

Part I
Definitions

For the purposes of these rules:
"the EPO" means the European Patent Office;
"the application" means a form for applying for benefits under the long-term care insurance scheme referred to in Article 83b ServRegs and the Implementing Rules thereto;
"the assessment form" means a form for assessing the degree of reliance on long-term care, to be completed, dated and signed by the insured person's doctor;
"the external manager" is the company entrusted with the handling of the medical side of the scheme, i.e. responsible for processing applications and giving opinions on the required level of care;
"the medical adviser" means the doctor acting on behalf of the external manager who, in carrying out their duties, is to be considered as an Office medical adviser;
"dependants" means dependent children within the meaning of Article 69 ServRegs and other dependants within the meaning of Article 70 ServRegs.

1 See CA/D 10/14 Article 61 and 62.

Part II
Procedure

1. The following are entitled to file an application:

   (i) an employee or a former employee, on behalf of themselves and/or their spouse or former spouse and dependants;
   (ii) a former spouse, on behalf of themselves;
   (iii) an insured person, where the employee is deceased.

2. The application must be made using the prescribed form and must be dated and signed by one of the persons referred to in paragraph 1 above. The person signing the application is at all times responsible for any statements made therein.

3. The application may be sent either to the EPO or direct to the external manager, who will then inform the EPO.

4. An assessment form is then forwarded to the person making the application.

5. The assessment form must be completed, dated and signed by the insured person's doctor, who must indicate, by placing a tick in the appropriate box, the extent to which the insured person is able to perform the said activities without the assistance of a third person.

6. The assessment form must be returned to the medical adviser accompanied by all the relevant medical information, documents, results and reports concerning the physical or mental examinations of the insured person and indicating clearly the diagnosis and state of health of said person.

7. An applicant pursuant to paragraph 1 may also download the application and assessment forms themselves and send them together with the relevant medical reports to the medical adviser direct.

8. The application will only be considered to be complete when the application form, the assessment form and all the relevant medical documents and reports referred to in the assessment form have been filed.

9. When assessing the forms and reports, the medical adviser has the right, whenever they consider it appropriate, to seek clarification of or verify the condition and level of care required by the insured person on whose behalf the application is being made, to check whether the forms have been correctly filled in, to ask for and make use of specialist medical documents, results and reports, and to require an appointment to be made for a visit and/or medical examination of the insured person at their place of residence or elsewhere.

10. When the external manager has all the necessary information, it will examine whether the criteria corresponding to the level of dependence are satisfied, and will communicate to the EPO its opinion indicating the proposed level of benefits, if any, to be granted.

11. Notwithstanding Article 89(5) ServRegs, the EPO reserves the right to have applications reassessed on a random basis by an independent expert.

12. Entitlement to long-term care benefits will be decided by the President of the EPO, on an opinion from the external manager and, where applicable, on the basis of the assessment of an independent expert. The decision will identify the degree of reliance on long-term care and be communicated to the applicant together with the external manager's opinion.

13. The external manager's opinion must indicate the degree of reliance on long-term care and recommend a period for which the care in question is to be granted. The assessment must also communicate a date by which a review of the degree of reliance on long-term care is to take place, sometime towards the end of the approved period. If the applicant wishes payment of long-term care benefits to continue after the approved period ends, they are advised to make an application to this effect well in advance (at least five months) of the review date communicated. If no such application is made, payment will automatically end when the approved period ends.

14. A follow-up check may be performed at any time during the approved period. This involves checking again whether the criteria for the level of care being provided continue to be met and informing the EPO, on the basis of the latest examination, to what extent the level of care needs to be adjusted. Where applicable, the level of benefits may be adjusted accordingly following a decision by the President of the EPO.

15. The long-term care benefits will be paid retroactively from the date on which the degree of reliance on long-term care is established, but in any case no earlier than three months prior to the date on which a complete application within the meaning of paragraph 8 is filed. The insured person must retain all documents, medical or otherwise, relevant for the purpose of establishing the date on which the circumstances giving rise to the reliance on long-term care commenced and submit them to the medical adviser.

Part III
Criteria for insured persons aged 14 years and over

1. Introduction

(1) For the purpose of assessing the degree of reliance on long-term care, the ability of the insured person to take care of themselves independently and to perform certain everyday and housekeeping activities, with or without assistance, help or care, must be examined.

(2) The assessment covers the ability of the insured person to perform 11 activities, of a physical and cognitive nature, divided into three categories, as follows:

(a) Category 1: Ability to perform basic everyday activities
(b) Category 2: Cognitive capacity
(c) Category 3: Ability to perform basic housekeeping activities.

2. Categories

For the purposes of these criteria:

(1) Category 1 ("basic everyday activities") comprises five activities, defined as follows:

(a) Mobility: means transferring, moving inside the home and moving outside the home. Transferring means the ability to get into and out of a chair or bed and includes the use of a walking stick, Zimmer frame or other support.
(b) Dressing: means putting on and removing clothes, but not tying shoelaces.
(c) Washing: means personal hygiene activities, including using a washbasin, showering or bathing, brushing teeth, combing hair and shaving.
(d) Eating and drinking: means intake of food and drink, but not including cooking.
(e) Use of WC: means bowel movement and passing water.

(2) Category 2 ("cognitive ability") comprises two elements, defined as follows:

(a) The ability to conduct one's daily life without the need for supervision means the patient is aware of possible danger or of dangerous situations posing a threat to their physical integrity and/or that of others. Supervision may be required for activities such as turning off taps, safe use of electrical equipment without danger of electrocution, safe use of natural gas including heating appliances and/or oven and going outside.
(b) The ability to communicate with others. The need for help may, for example, be caused by physical and/or cognitive impairments. These impairments may include physical elements, such as reduced hearing and/or vision, but only if and to the extent that these physical problems cannot be compensated for by appliances and/or other aids and the patient requires assistance from a third person in order to be able to communicate.

(3) Category 3 ("basic housekeeping activities") consists of four activities relating specifically to the insured person and excluding any help required for other family members or persons, defined as follows:

(a) Preparing meals
(b) Cleaning the home
(c) Washing and ironing clothes
(d) Shopping for basic items and necessities, including food.

3. Ability to perform the activities in each category

In order to assess the ability of the insured person to perform the activities in Categories 1 to 3 defined in Part III 2. above, the doctor must indicate (by means of a tick in the appropriate box on the assessment form) the extent to which the insured person is able to perform the said activities without assistance, help or care provided by a third person, by reference to the situations indicated below. Only one situation per activity may apply.

(1) For Category 1:

A = The patient is able to perform the activity without any help whatsoever and without having to be encouraged to perform it.

B = The patient is able to perform the activity without help, but must be asked and encouraged to perform it.

C = The patient can perform the activity only partly without help, for example due to physical or cognitive impairments, and needs either physical help or comprehensive guidance, i.e. direction and demonstration of the individual steps involved.

D = The patient is completely reliant on help to perform the activity, for example due to physical or cognitive impairments, and needs comprehensive physical help and/or guidance and supervision.

Where mechanical or other devices allow the insured person to perform the activities mentioned, including independently transferring, they will be considered able to perform that activity without assistance or, depending on the circumstances, with partial assistance only. The devices referred to include, for example, walking sticks, hearing aids, Zimmer frames, wheelchairs, crutches, artificial limbs, orthopaedic soles or shoes, callipers, support stockings, orthopaedic corsets and special lavatory seats, but not alterations to the home, such as the installation of a special lift or bath.

For each of the mobility sub-activities, including transferring and moving around inside and outside the home, the doctor must indicate in the appropriate box on the assessment form, using the above scale from A to D, the ability to perform each of the sub-activities specified.

(2) For Category 2:

A = No supervision or help required.

B = Supervision or help required up to three times a day.

C = Supervision or help required more than three times a day.

(3) For Category 3:

A = No help required

B = The patient can only perform the activity with help.

4. Time allocation for each activity in each category

For the purpose of estimating the number of hours of non-medical assistance and/or help and/or care required, the medical adviser must indicate a fixed standard amount of time (number of minutes per day) required for each activity, in accordance with the tables below:

(1) For Category 1:

Category 1	**A**	**B**	**C**	**D**
(a) Mobility: *Transferring*	-	5 mins	10 mins	15 mins
(a) Mobility: *Moving around inside the home*	-	5 mins	10 mins	15 mins
(a) Mobility: *Moving around outside the home*	-	-	5 mins	10 mins
(b) Dressing	-	5 mins	10 mins	20 mins
(c) Washing	-	15 mins	30 mins	60 mins
(d) Eating & drinking	-	15 mins	45 mins	80 mins
(e) Use of WC	-	10 mins	20 mins	45 mins

(2) For Category 2:

Category 2	**A**	**B**	**C**
(a) Supervision	-	30 mins	60 mins
(b) Communication	-	30 mins	60 mins

(3) For Category 3:

Category 3	**A**	**B**
(a) Preparing meals	-	30 mins
(b) Cleaning of the home	-	30 mins
(c) Washing and ironing of own clothes	-	30 mins
(d) Shopping (basic items such as food)	-	20 mins

5. Overall assessment and final recommendation as to the level of care needed

In determining the level of benefits to be paid to the insured person, the following criteria must be taken into account:

(a) Level 1

The insured person requires help in connection with at least three of the seven activities/abilities mentioned in Categories 1 and 2, with the proviso that:

(i) "Mobility" in Category 1 is to be considered as one activity only.
(ii) In Category 1, indications under at least C or D are required. If "mobility" is indicated, it must relate to "transferring".
(iii) In Category 2, indications under B or C are required.
(iv) The period for which care is required must be at least six months.
(v) The total amount of time allocated in accordance with the standard tables for Categories 1, 2 and 3 together must amount to at least 120 minutes a day (equalling 60 hours a month).

(b) Level 2

The insured person requires help in connection with at least four of the seven activities and abilities mentioned in Categories 1 and 2, with the proviso that:

(i) The criteria mentioned in 5(a)(i), (ii), (iii) and (iv) above must be satisfied.
(ii) The total amount of time allocated in accordance with the standard tables for Categories 1, 2 and 3 together must amount to at least 240 minutes a day (equalling 120 hours a month).

(c) Level 3

The insured person requires help in connection with at least five of the seven activities and abilities mentioned in Categories 1 and 2, with the proviso that:

(i) The criteria mentioned in 5(a)(i), (ii), (iii) and (iv) above must be satisfied.
(ii) The total amount of time allocated in accordance with the standard tables for Categories 1, 2 and 3 together must amount to at least 360 minutes a day (equalling 180 hours a month).

Part IV
Criteria for children

Assessing children under the EPO's long-term care insurance scheme

A child is defined as an insured person aged 13 and under.

As in the case of insured persons aged 14 and over, the system provides for three needs-related levels of long-term care. In the case of children over the age of three, an exceptionally high level of care can be granted under the hardship provision. The need for long-term care must apply for at least six months.

The level of care required is calculated by establishing the difference between the average age-related ability level of a healthy child (see Categories 1 and 2 below) and the ability level of the child in question, and working out how much extra time it takes every day to address that difference.

This type of assessment can only be made for children aged 18 months or over. Even healthy children under that age do not generally have the abilities assessed in Categories 1 and 2. Infants and young children are not independent in any aspect of daily life. The younger the child, the more difficult it is to assess on the basis of the ability level the level of care required above and beyond what an infant or young child would need under normal circumstances. Children have to reach a certain age before it is possible to ascertain how much special help and care they need, based on the deviation from the degree of independence one would normally expect at that age.

This is why infants up to the age of 18 months who require an exceptionally high degree of help are regarded as a group unto themselves and will be assigned level 1 support if needed. This presupposes that they have been diagnosed accordingly with e.g. major problems with eating and drinking. Examples of such diagnoses include cleft lip, cleft palate, cerebral palsy and coronary defects.
Category 3 of the assessment for insured persons aged 14 and over is not taken into consideration when assessing the level of care required by children because in this regard the complete dependence of children on others is taken for granted in the EPO member states.

1. Age-related ability levels

Healthy children reach physiological milestones at certain ages. The following tables indicate the average ability levels according to age for mobility, dressing, washing, eating and drinking and using the WC, as well as for awareness of dangers and the ability to communicate.

Category 1
Abilities of a healthy child to perform basic everyday activities

(a) Mobility

Transferring and moving around inside the home

Age	Level of physiological ability
Up to 12 months*	D
12 to 18 months	C
18 to 30 months (2.5 years)	B
From 2.5 years	A
* If the child could theoretically be assigned to two categories, e.g. if it is exactly 12 months old, it is assigned to the next higher category, i.e. 12 to 18 months. This logic applies to all tables referring to age-related abilities.	

In the case of moving around outside the home, it is assumed that assistance is required in the case of all children under seven years of age because they need to be supervised (level D). The maximum time allocation for mobility is 40 minutes.

(b) Dressing

Age	Level of physiological ability
Up to 18 months	D
18 to 36 months (3 years)	C
3 to 5 years	B
From 5 years	A

(c) Washing

Age	Level of physiological ability
Up to 24 months (2 years)	D
2 to 4 years	C
4 to 7 years	B
From 7 years	A

(d) Eating and drinking

Age	Level of physiological ability
Up to 18 months	D
18 to 30 months (2.5 years)	C
2.5 to 6 years	B
From 6 years	A

(e) Use of WC

Age	Level of physiological ability
Up to 24 months (2 years)	D
2 to 4 years	C
4 to 6 years	B
From 6 years	A

Definitions

A = The child is able to perform the activity without any help whatsoever and without having to be encouraged to perform it.

B = The child is able to perform the activity without help, but must be asked and encouraged to perform it.

C = The child can perform the activity only partly without help, for example due to physical or cognitive impairments, and needs either physical help or comprehensive guidance, i.e. direction and demonstration of the individual steps involved.

D = The child is completely reliant on help to perform the activity, for example due to physical or cognitive impairments, and needs comprehensive physical help and/or guidance and supervision.

Where mechanical or other devices allow the child to perform the activities mentioned, including independently transferring, the child will be considered able to perform that activity without assistance or, depending on the circumstances, with partial assistance only. The devices referred to include, for example. walking sticks, hearing aids, Zimmer frames, wheelchairs, crutches, artificial limbs, orthopaedic soles or shoes, callipers, support stockings, orthopaedic corsets and special lavatory seats, but not alterations to the home, such as the installation of a special lift or bath.

Category 2
Cognitive capacity of a healthy child

(a) Ability to recognise dangers and risks in everyday life and to remain unsupervised without the risk of causing harm to themselves or others

Age	Level of physiological ability
Up to 3 years	C
3 to 6 years	B
From 6 years	A

(b) Capacity to communicate with others

Age	Level of physiological ability
Up to 12 months	C
1 to 4 years	B
From 4 years	A

Definitions

A = No help required

B = Intermittent supervision or help required

C = Constant supervision or help required

Time allocation for each activity in each category

For the purpose of estimating the number of hours of non-medical assistance and/or help and/or care required, the medical adviser must indicate a fixed standard amount of time (number of minutes per day) required for each activity, in accordance with the tables below:

For Category 1:

Category 1	A	B	C	D
(a) Mobility: *Transferring*	-	5 mins	10 mins	15 mins
(a) Mobility: *Moving around inside the home*	-	5 mins	10 mins	15 mins
(a) Mobility: *Moving around outside the home*	-	-	5 mins	10 mins
(b) Dressing	-	5 mins	10 mins	20 mins
(c) Washing	-	15 mins	30 mins	60 mins
(d) Eating and drinking	-	15 mins	45 mins	80 mins
(e) Use of WC	-	10 mins	20 mins	45 mins

For Category 2:

Category 2	A	B	C
(a) Supervision	-	30 mins	60 mins
(b) Communication	-	30 mins	60 mins

2. Determining the level of extra care required by a sick and/or disabled child

The level of extra care required is determined on the basis of the **Table for assessing the level of care required by a sick and/or disabled child** below and the child assessment form completed by the child's doctor.

The extra care required is the difference between the physiological ability level of the sick and/or disabled child and that of a healthy child of the same age.

When completed, the table provides an overview of the ability levels assessed in Category 1 (a) to (e) and Category 2 (a) and (b).

"Mobility" in Category 1 is to be considered as <u>one</u> activity only. Even healthy children under seven years of age need help when moving around outside the home, but they do not have regular medical appointments and therapy sessions over an indefinite period. Where a child under seven years of age has to attend such appointments, due consideration must be taken of the time this takes. If, from the time a child is seven (the age at which healthy children start to be independently mobile), help in getting to school is required, this too should be taken into consideration.

Table for assessing the level of care required by a sick and/or disabled child

Category 1 activity	**(I.) Age-related ability level/time allocated* for a healthy child**	**(II.) Ability level/ time allocated* for the child requiring long-term care**	**(IV.) Difference in time allocation***
(a) Mobility *Transferring*	/	/	
(a) Mobility *Moving around indoors*	/	/	
(a) Mobility *Moving around outdoors*	/	/	
(b) Dressing	/	/	
(c) Washing	/	/	
(d) Eating and drinking	/	/	
(e) Use of the WC	/	/	
Category 2 activity			
(a) Awareness of dangers	/	/	
(b) Communication	/	/	
	(III.) No. of activities where there is a difference		
		(V.) Total of differences in time allocations	
		(VI.) Level of care	
* "Time allocation" as indicated in the section *Time allocation for each activity in each category.*			

3. Level of care required

In assessing the level of care required by children, the following **criteria** apply:

Level 1 support

The child in question is less able than a healthy child of the same age with regard to at least **three** of the seven activities and abilities mentioned in Categories 1 and 2.

(i) "Mobility" in Category 1 is to be considered as one activity only, with a maximum time allocation of 40 minutes.
(ii) In Category 1, indications under at least C or D are required. If "mobility" is indicated, it must relate to "transferring".
(iii) In Category 2, indications under B or C are required.
(iv) The period for which care is required must be at least six months.
(v) The total amount of extra time allocated* must amount to at least **80** minutes a day (i.e. 40 hours a month).

Level 2 support

The child in question is less able than a healthy child of the same age with regard to at least **four** of the seven activities and abilities mentioned in Categories 1 and 2.

(i) Criteria (i), (ii), (iii) and (iv) for Level 1 support must be met.
(ii) The total amount of extra time allocated* must amount to at least **160** minutes a day (i.e. 80 hours a month).

Level 3 support

The child in question is less able than a healthy child of the same age with regard to at least **five** of the seven activities and abilities mentioned in Categories 1 and 2.

(i) Criteria (i), (ii), (iii) and (iv) for Level 1 support must be met.
(ii) The total amount of extra time allocated* must be at least **240** minutes a day (i.e. 120 hours a month).

* Differences in absolute time allocation (= time allocation for a child requiring long-term care minus the time allocation for a healthy child) according to the Category 1 and 2 standard tables.

4. Sample calculation

Case: child aged 6.5 years, microcephaly, ataxia, dysphagia, double incontinence

- The child's doctor completes the child assessment form:

Basic everyday activities (Category 1)		***Child's abilities***			
		A	*B*	*C*	*D*
(a) Mobility	*Transferring*			X	
	Moving around indoors			X	
	Moving around outdoors				X
(b) Dressing				X	
(c) Washing				X	
(d) Eating and drinking				X	
(e) Use of WC				X	

Basic cognitive abilities (Category 2)	***Child's abilities***		
	A	B	C
(a) Ability to recognise dangers and risks in everyday life and to remain unsupervised without risk of causing harm to themselves or others			X
(b) Ability to communicate with others		X	

With due regard to section 2, *Determining the level of extra care required* pursuant to Category 1 (a) to (e) and Category 2 (a) and (b), and having examined with a critical eye the ability levels indicated on the assessment form based on the doctor's diagnosis, also indicated in the latter's own words on the form, and resulting illness- or disability-related limitations and additional resources required, the medical advisor enters the following information in the table for assessing the level of care required by a sick and/or disabled child:

I. The **age-related average ability level and time allowance in minutes in the case of a healthy 6.5-year-old child**.

II. The **illness- or disability-related ability level** indicated in the assessment form and the **related time allocation** in minutes for the child in question.

III. The **number of activities for which the ability** of the child in question is **lower** than that of a healthy child of the same age (if the number is < 3, long-term care is not needed; see section 3, *Level of care required*)

IV. The **difference in time allocations** for (I) and (II).

V. The **total difference in time allocation**.

VI. The level of care required (see section 3, *Level of care required*).

Table for assessing the level of care required by a sick and/or disabled child

Category 1 activities	**(I.) Age-related ability level/ time allo-cated* for a healthy child**			**(II.) Ability level/time allocated* for the child requiring long-term care**			**(IV.) Difference in time allocation***
(a) Mobility *Transferring*	**A**	/	**0**	C	/	10	**10**
(a) Mobility *Moving around indoors*	**A**		**0**	C		10	**10**
(a) Mobility *Moving around outdoors*	**D**		**10**	D		10	**0**
(b) Dressing	**A**	/	**0**	C	/	10	**10**
(c) Washing	**B**	/	**15**	C	/	30	**15**
(d) Eating and drinking	**A**	/	**0**	C	/	45	**45**
(e) Use of WC	**A**	/	**0**	C	/	20	**20**
Category 2 activities							
(a) Awareness of danger	**A**	/	**0**	C	/	60	**60**
(b) Communication	**A**	/	**0**	B	/	30	**30**
	(III.) No. of activi-ties where there is a difference			**7**			
				(V.) Total of differences in time allocations			**200**
				(VI.) Level of care			**2**

* "Time allocation" as indicated in the section *Time allocation for each activity in each category*

Part V
Hardship provisions

1. Medical hardship

For a case to be classified as one of medical hardship, i.e. as requiring an exceptionally high level of care, the following criteria must be fulfilled:

1. The criteria for Level 3 support are fulfilled.

   and

2. Constant supervision by a physically present carer is required at all times[1] because there is a high probability that the insured person's considerable degree of restless activity will cause them to endanger themselves or others and swift help must be available at all times. In this case, total benefits amounting to 125% of the basic salary, grade 1, step 4 (G1-4) are payable.

   or

3. Constant supervision by a physically present carer is required at all times[1] because the insured person is on technical life-support equipment requiring unscheduled, immediate intervention on the carer's part.[2] In this case, total benefits amounting to 150% of the basic salary, grade 1, step 4 (G1-4) are payable.

   or

4. The insured person has no use of their arms or legs, i.e. has no ability whatsoever to grasp, stand or walk.[3] In this case, total benefits amounting to 150% of the basic salary, grade 1, step 4 (G1-4) are payable.

1 Constant physical presence means having a carer on constant standby who can hear the patient calling and/or is within earshot of the patient and can take action in unforeseen circumstances within a minute at most. The carer can e.g. be in a room next door; they do not have to sit with the patient.

2 Technical life-support equipment means e.g. a ventilator. It could also mean a tracheostoma requiring a carer's readiness to take immediate action if necessary. It does not include PEG tubes or indwelling catheters, as they do not provide "acute" life support.

3 This applies not only where all limbs are paralysed but also e.g. where there is a high degree of contracture, rheumatic stiffness, a high level of tremor and rigidity in the case of Parkinson's disease, or athetosis in the case of Huntington's disease. It does not apply if the insured person can change position in bed unaided, turn the pages of a newspaper or hold a book themselves or hold a spoon or sippy cup to their mouth.

2. Financial hardship

For a case to be classified as one of financial hardship. the following criteria must be fulfilled:

1. The criteria for at least Level 1 support are fulfilled.

   and

2. The insured person is in need of a nursing home or home care and the associated costs are not fully covered by their monthly income and the monthly income of other members of the joint household.[1]

   and

3. The insured person can provide evidence of their costs and income situation.

In such cases, total benefits up to 150% of the basic salary, grade 1, step 4 (G1-4), are payable. The additional benefit granted on the basis of financial hardship may not exceed any financial shortfall calculated in accordance with point 2 above.

Part VI
Procedure in the event of disputes

Any dispute relating to the level of long-term care benefits requested must follow the procedure outlined below:

The medical adviser makes an assessment of the level of care required and communicates to the EPO its medical opinion indicating the proposed level of benefits, if any, to be granted. This assessment is considered the first medical opinion according to Article 89(4) ServRegs. The insured person may challenge the medical opinion on the basis of which the President's decision is taken pursuant to Article 89(5) ServRegs. To this effect, the procedure described in Article 90 ServRegs applies.

EPO LONG-TERM CARE INSURANCE SCHEME/ OTHER CARE INSURANCE

The benefits under the European Patent Office's long-term care insurance scheme are granted in the event of a need for care and are not offset by benefits from other care insurance schemes.

1 When determining the insured person's monthly income, the following are typically taken into account: EPO salary or pension payments, salary payments from other employers or sources, pension or other regular payments from any other social security system or source, reimbursements via the EPO health insurance scheme or any other health insurance, and LTC benefits granted by the EPO and/or under any other scheme. This list is not exhaustive; other elements may also be taken into consideration.

Circular No. 267[1]
(29 May 2009, 22nd December 2011)

Revised version of Circular No 267 regarding basic and further vocational training

The President has decided to adopt as of 01.04.2009 the revised version of Circular No 267:

The guidelines for basic and further vocational training are intended to assist employees to perform their tasks well, in a rational way and to their own satisfaction. They are structured as follows:

Article 1 - Definition of objectives
Article 2 - Areas of training
Article 3 - Types of training
Article 4 - Allocation of responsibility

Responsibility for basic and further vocational training is carried at various levels in the Office. It is shared by:

- the **staff member**, especially by drawing attention to his needs, by participating actively in training, and by his willingness to pursue further training on his own account
- the **line manager**, especially by furthering the training of his staff, by releasing them for training and by encouraging them to put what they have learnt into practice
- the **Directorate Learning and Development**, which collects special needs and implements programmes within budget frameworks and, after consultation of the Training Committee, draws up the draft training budget and reports on training activities
- the, **Training Committee**, which gives advice on the training budget and on measures proposed or implemented

Co-operation at all these levels is necessary to achieve the training objectives and optimise the allocation of resources. The annexes to the training guidelines contain forms for requesting training (for individuals and groups). These are intended to assist all those concerned in determining particular training needs.

Brian McGinley
Acting Vice-President DG4

1 Circular 267 as amended herewith shall enter into force on 01 January 2012 and shall apply to all applications filed on or after that date.

GUIDELINES FOR BASIC AND FURTHER VOCATIONAL TRAINING

Having regard to the Service Regulations, and in particular Article 29 thereof, and having consulted the General Advisory Committee, the President has issued the following guidelines on basic and further vocational training.

Basic and further training includes all training supplementing school and professional qualifications obtained prior to appointment to the Office.

Article 1
Definition of objectives

The objectives of training are to further the skills and career development of Office staff, in order to help the staff member to:

- meet the present and future demands of his post
- prepare himself for assuming new duties and/or responsibilities.

Far from being restricted to particular periods, training is an ongoing activity which should be pursued throughout the staff member's career, providing him with opportunities to develop in his professional field.

Article 2
Areas of training

Training chiefly covers the following:

- explaining the Office's activities and the specific role and task of the staff member concerned
- improving language proficiency
- supplementing, consolidating and updating professional knowledge and skills
- offering opportunities to broaden professional experience through internal and external contacts.

Article 3
Types of training

Training can take the form of:

- self-training (private study, personal endeavour in the workplace, etc.)
- on-the-job training (with the assistance of a superior, tutor or colleague), supported by work organisation measures (networking, job diversification, job enrichment, job rotation, teamwork)
- courses, seminars or lectures inside or outside the Office
- contacts with internal or external experts.

Article 4
Allocation of responsibility

Responsibility for training is shared by:

the staff member, who

- draws attention to his training needs and, if necessary, makes suitable proposals
- participates actively in training and undertakes to complete it
- pursues self-training and on-the-job training on his own initiative

the line manager, who

- introduces his staff to their duties and supports on-the-job training
- takes work organisation measures to enrich the job
- identifies individual needs, evaluates the proposals submitted by his staff and informs them of the possibilities for training
- submits training requests to the Directorate Learning and Development via his superior
- allows and encourages his staff to put what they have learnt into practice
- evaluates the results of training at the individual level
- plans and organises the work of his unit so as to allow time for training

the Directorate Learning and Development,

with the task of:

- investigating needs associated with certain specific functions, advise and assist line managers and staff
- formulating specific proposals for training measures
- implementing such measures when approved, within the budget framework

is responsible for the following:

- addressing overall needs on the basis of the requests formulated by line managers
- preparing the training budget (Article 3030)
- monitoring the training budget
- organising professional training
- approving contracts with external training bodies
- organising language training

- coordinating special training in (standard) EDP tools/software with Information Management
- organising the training of reporting officers and managers
- supporting training activities for the staff representation
- issuing an annual report on training activities

the Training Committee,

which includes one representative from each Directorate General and one representative from each local Staff Committee. A member of Directorate Learning and Development will act as chairman. As a consultative body, the Training Committee will be invited to give opinions on:

- the proposals for budget Article 3030
- the extent to which the training measures proposed or implemented correspond to the objectives defined in Article 1
- the effectiveness of training activities as presented in the annual report issued by Principal Directorate Human Resources

Article 5
Entry into force and revision

These guidelines shall enter into force on 1 April 2009. These Guidelines will be subject of further review in the light of the results of the Professional Development Project.

ANNEX TO THE GUIDELINES FOR BASIC AND FURTHER VOCATIONAL TRAINING

1. Permission to take part in training

Permission to take part in courses, seminars, meetings and other events organised by the Office is given as a rule by the line manager responsible for the department concerned, in agreement with the respective authorising officer for Article 3030.

Approval is to be given if the training measure envisaged is in the Office's interests and is compatible with the proper functioning of services, and if the staff member qualifies for participation.

2. Financial assistance

With a view to fostering staff knowledge and skills, the Office may contribute to the cost of voluntary attendance at outside educational establishments and courses.

The key question is whether the training concerned serves the interests of the Office. In addition,

- the staff member must demonstrate the necessary qualities for participation
- the staff member must be prepared to attend the educational establishment or course until his training has been successfully completed
- the educational establishment or course must be of a standard appropriate to the needs of the staff member concerned
- no equivalent training must be available within the Office at the time required.

If the above conditions are fulfilled, the Office may on request make a financial contribution, normally not exceeding 50%, to cover the fees of the educational establishment and/or the cost of courses and examinations. Financial assistance is limited to an annual maximum of EUR 1 560 per staff member. The Office makes no financial contribution towards course costs of less than EUR 156.

The aforementioned annual maximum limit and the threshold below which no financial contribution is made shall, from and including 1 January 2013, be adjusted with effect from 1 January each year by applying the arithmetical average rate of salary adjustment decided by the Administrative Council under Article 64, paragraph 6 of the Service Regulations for Austria, Germany and the Netherlands and backdated to 1 July of the preceding year.

Regarding payment of advances, see the rules governing duty travel.

Applications for financial assistance must be submitted to the personnel department giving reasons and details of expenses, before enrolling for the course concerned. The personnel department reaches its decision on

the basis of the aforementioned criteria after consulting the employee's superior, where appropriate.

3. Special leave

The grant of special leave to enable a staff member to attend an educational establishment or course is governed by Rule 6(3)c) and d) of Circular No. 22. Requests for special leave are decided by the personnel department. If the further training is of longer duration than the special leave granted, the difference is deducted from the staff member's annual leave.

4. Evidence of completion of further training

A staff member who is granted financial assistance and/or special leave by the Office under point 3 above to enable him or her to take part in further training of the type specified in point 2 must submit the following documents to the personnel department on completion of the further training:

- a certificate of attendance from the institution providing the training,
- any certificates or diplomas obtained.

Training request form (personal needs analysis)	
To Directorate Learning and Development:	
Training requested for (name): Department:	Line manager's name:
Employee's main duties:	
Present circumstances/reasons for training:	
Training needed/objective:	
Employee's current level of knowledge in this area:	
Schedule:	
Meeting with employee on:	Line manager's approval:

To be completed by Directorate Learning and Development
Training options available:
Opinion:
Signature:

Note: If the approved training involves duty travel, please submit a duty travel request form.

Training request form (group needs analysis)			
Training title:			
To Directorate Learning and Development:			
Via Principal Director: Name	Principal Directorate	**Approval:** Date	Signature
Requester: Name	Directorate	Date	Signature
Meetings:			
Training requested for (group type):			
Level of training involved:			
Reasons/background:			
Objective:			

To be completed by Directorate Learning and Development
Training options available:
Opinion:
Signature:

Circular No. 280
(10 May 2004)

Guidelines on selecting venues for vocational training

Basic and further vocational training, the subject of Circular No. 267, is a key element in the EPO's drive to become a model organisation. Courses designed and organised by the Office are central to all its vocational training programmes. From 1 June 2004 they will be subject to the following rules:

- If the participants all come from one duty station, the course must be held on the premises of that duty station.
- If the participants come from various duty stations, the course must be held on the premises of the duty station that is projected to incur the lowest travel costs.

Where there are technical or organisational grounds for not applying these rules, courses may by way of exception also be held at a duty station from which a relatively large number of participants come, or outside the Office, in the vicinity of the relevant duty station. The principle of economic resource management must be respected. Decisions on the approval of such exceptions will be taken by the Vice-President DG 4 in consultation with the Principal Directors 4.3 and 4.7.

If a course lasting at least two days is held on Office premises on cost grounds in keeping with these guidelines, the participants may be invited out to a restaurant for an evening meal. The guidelines on catering and other entertainment must be observed.

Curt Edfjäll
Vice-President DG 4

Circular No. 282
(30 June 2004)

Revision of Article 12 of the Pension Scheme Regulations concerning the transfer of pension rights

Previously, Article 12, paragraph 1, of the Pension Scheme Regulations (PenRegs) of the European Patent Office, in conjunction with Rule 12.1/1 thereto, stipulated that staff could only transfer pension rights acquired with the pension scheme to which they belonged directly prior to their entry into the service of the Office. Pension rights acquired under other pension schemes not directly prior to entry into the service of the Office could not be transferred.

At its meeting in June 2004, the Administrative Council decided that all pension rights acquired prior to entry into the service of the Office may henceforth be transferred into the EPO's pension scheme, regardless of whether or not they were acquired under the last pension scheme prior to joining the Office, provided that the schemes under which they were acquired permit such transfers and that the amounts concerned are actually transferred to the Office.

Amounts transferred from schemes other than the last one prior to entry into the service of the Office will be calculated on the basis of the following:

- the amount actually transferred to the EPO and the actual value date on which it enters the EPO's account,
- the staff member's basic salary on the date of transfer, and
- the age coefficient (actuarial coefficient).

Staff wishing to transfer pension rights acquired with a pension scheme other than the one to which they belonged directly prior to their entry into the service of the Office should submit a written application to:

Dept. 4.3.3 Compensation and benefit systems – Pension Administration, Room 361/1, Munich to arrive no later than 31 December 2004.

Application forms can be printed out from the intranet at

DG4line > Personnel > Compensation & Benefits > Transfer of Pension Rights.

Forms are also available from your local supplies office. **Please note that all applications must be submitted using this form.**

For staff still in their probationary period, transfer applications must be made no later than six months after notification of confirmation of appointment as a permanent employee. For contract staff the time limit is six months after notification of confirmation of appointment. Contract staff who are subsequently appointed as permanent employees have a further opportunity to make a

transfer application, within six months at the latest after notification of confirmation of their appointment.

Applications to transfer pension rights from the last pension scheme prior to entry into the service of the Office, submitted by staff recruited before 1 July 2004, will be processed in accordance with the previous regulations.

For more information about the revision of Article 12 PenRegs please see the brochure entitled "Information on transferring pension rights" which will be distributed to all staff at the beginning of July 2004. This brochure is also available on the intranet at

DG4line > Personnel > Compensation & Benefits > Transfer of Pension Rights.

Curt Edfjäll
Vice-President DG 4

Circular No. 289
(19 September 2005)

Permanent employees applying for vacancies to be filled on contract

1. Permanent employees shall be eligible to apply for temporary duties published in notices of vacancies to be filled on contract in their existing grade group.

2.[1] Notices of vacancies to be filled on contract shall indicate that permanent employees are invited to apply. Should a permanent employee be selected for a vacancy in his existing grade group, he will be assigned to the temporary duties advertised.

3.[2] Such assignment shall not affect any aspect of his permanent employment; for example, service on temporary assignment will be taken into account for the purposes of step-advancement and obtaining a higher grade.

4. The releasing department may decide, in co-ordination with personnel department, to replace the permanent employee for the duration of the temporary assignment.

5. When the temporary assignment ends, the permanent employee shall resume his former duties in the releasing department.

6. The present circular shall enter into force on 1 October 2005, and shall apply to all vacancy notices to be filled on contract which are published as from that date. One year after its entry into force, its operation shall be reviewed.

Curt Edfjäll
Vice-President DG 4

1 Amended by Circular No 308.
2 Amended with effect from 25 October 2007 by decision of the President.

Circular No. 290
(5 October 2005)

Work permits no longer needed in Germany for family members of an EPO employee forming part of the employee's household

The German Ministry of Justice has notified the EPO (letter of 1 February 2005, ref.: Z B 5 - 9515/6-7SH6-Z4 1229/2004) that, following the entry into force on 1 January 2005 of the Federal Law on Immigration (German Federal Law Gazette I 2004, page 1 950 ff), members of the family of an EPO employee forming part of the employee's household no longer need a work permit, irrespective of nationality.

The Office will issue certificates to this effect, on request.

This circular supersedes Circular No. 37 of 5 July 1979.

Circular No. 295
(30 October 2006)

Transfer of pension rights

Information for all EPO staff and pensioners who have acquired pension rights in the Netherlands

1. In principle, previously acquired pension rights can be transferred to the EPO scheme under the conditions laid down in Article 12(1) and Rule 12.1/1 of the Pension Scheme Regulations. However, tax obstacles have made it very difficult to transfer pension rights acquired in the Netherlands. Only recently following the Dutch Decree CPP/2003/200M and after long discussions with the Dutch tax authorities, has a procedure been agreed to allow EPO employees to request tax-free transfers of pension rights without having to give the required guarantee on the deferred income tax assessment, but only a declaration to the EPO.

2. Over the years, various publications have opened transfer windows limited to certain groups of applicants. The legal complexities have in most cases made it very hard even to ascertain whether earlier applications for transfer of Dutch pension rights were formally correct. **It has therefore been decided that all employees must apply again, even if they have already filed an application**, and that a new time limit is to be set for all staff concerned.

3. To transfer pension rights acquired in the Netherlands, you must apply in writing **within a six-month period starting on 15 November 2006 and ending on 14 May 2007**. Unfortunately, applications submitted after the time limit cannot be considered. For staff members newly recruited or still in their probationary period as from 15 November 2006, the time limit for application provided for in the EPO Pension Scheme Regulations (Rule 12.1/1 (vi)) will apply.

4. **Should your pension scheme in the Netherlands (e.g. AOW) not allow pension rights transfers, you will not be able to benefit from this option**. All employees concerned, especially pensioners, are encouraged to check with their scheme if transfers are possible. You must nevertheless ensure that your application is filed within the time limit set out above.

5. Subject to the proviso in paragraph 4, first sentence, the following employees may request a transfer:

   (i) permanent employees of the EPO
   (ii) contract staff who have a minimum of five years' service
   (iii) former employees who retired on or before 15 November 2006, subject to certain conditions under Dutch law.

   The descendant or spouse of a deceased employee may not ask for a transfer.

6. Please use the application form on the intranet[1] or available on request from Department 4.3.3 and send it in good time to:

   Dept. 4.3.3[2] (Room 764) Isar building

Curt Edfjäll
Vice-President DG 4

1 For the application form and additional information on the procedure, check the intranet under Work > Human Resources > Personnel > Compensation & Benefits >Transfer of pension rights - the Netherlands or the EPO pensioners' website: http://pensioners.epo.org.

2 Please note that due to the large number of applications expected, Vanbreda International has been selected to support 4.3.3 in the processing of transfers of pension rights.

Circular No. 299
(5 April 2007)

The use of assessment centres in management selection procedures in the Office

Dear colleagues,

From 2003, the Office encouraged the use of assessment centres in order to improve the selection procedure for A6 management posts in DG 1 and DG 2. The aim was to ensure that the management skills of candidates could be evaluated in a fully transparent and consistent way. In the course of 2005 a similar practice was extended to A5 and A6 management posts office wide. The assessment centre procedure has become widely accepted within the Office as a means of providing impartial data on candidates' management qualities.

Candidates are assessed in accordance with a management competency model, comprising a set of clearly defined criteria which reflect the essential management qualities needed at the Office. The assessment centre focuses on management behaviour, rather than on specific technical skills for individual posts.

An assessment centre is an important part of the selection procedure, and the data gathered on individual candidates may be used by the selection board to gain a broader picture of the candidate's management style or management potential. It is not, however, the only information source for the selection board's deliberations.

Assessment centres are run on behalf of the Office by external service providers, following a tender procedure concluded in September 2005.

This circular introduces guidelines for the use of assessment centres in the Office.

Curt Edfjäll
Vice-President DG 4

GUIDELINES FOR THE USE OF ASSESSMENT CENTRES IN MANAGEMENT SELECTION PROCEDURES IN THE OFFICE

1. The use of an assessment centre in the selection procedure for A5 and A6 posts does not restrict the authority or competence of the selection board.

   (a) An assessment centre shall generally, at the discretion of the selection board, be used in the selection procedure for any A5 or A6 post within the Office for which the President is the appointing authority. A mention of this shall be included in the notice of competition.
   (b) An assessment centre can be organised either as an individual assessment centre or as a group assessment centre. A group assessment centre will have between 5 and 15 candidates. In cases where there are fewer than five candidates, an individual assessment will be used.
   (c) The assessment centre shall be conducted by an external service provider. The results of the assessment centre shall be passed on to the selection board as input for its deliberations and recommendations.
   (d) The selection board shall decide which candidates will participate in the assessment centre

2. The selection board may, at the request of any of its members, appoint an internal panel to oversee the procedure of group assessment centres and to ensure that there are no irregularities. Any irregularities in the procedure noticed by the panel shall be reported to the selection board.

   (a) The members of the internal panel must be selected from the list of nine experts nominated annually, three nominated by management, three by the Central Staff Committee and three by the personnel department.
   (b) The panel shall consist of one representative from management, one from the staff representation and one from the personnel department. Members of the panel who observe candidates during the execution of the assessment centre exercises must be of the same grade as or of a higher grade than the candidates concerned. To ensure impartiality none of the nominated experts shall be a member of the selection board. The panel members shall exercise the greatest discretion in respect of information from the assessment centre and regarding the selection procedure.

3. Candidates participating in an assessment centre shall receive, with their invitation, notification of the management competencies to be assessed, and of the type and duration of the tests.

4. All candidates participating in an assessment centre shall be invited to an interview.

5. A personal report outlining strengths and development areas in relation to the defined set of management competencies shall be drawn up by the

external service provider for each candidate. This personal report shall be communicated to the selection board and to each internal candidate.

(a) Once the selection procedure has been finalised, the Personnel Department shall invite each internal candidate to a personal feedback session on the assessment centre report. During this exercise, the Personnel Department shall help the candidate to draw up a plan for future development, taking into account the needs of the individual within the wider context of the organisation and the framework of the training budget. The draft plan shall then be discussed between the individual candidate and his line manager, whose support is needed for the successful implementation of the development plan.

(b) During this exercise, the internal candidate will also be asked for his permission to include the report in his personal file. At the same time, the internal candidate shall be informed that the report, if included in the personal file, may be used by future selection boards for up to three years.

(c) External candidates shall receive oral feedback from the external service provider regarding their individual performance in the assessment centre. They shall not, however, be entitled to a copy of the written report.

Entry into force

These guidelines shall enter into force with immediate effect.

Curt Edfjäll
Vice-President DG 4

Circular No. 301
(13 July 2021)

Guidelines on Office crèches

1. Office crèches

   Office crèches are facilities which are subsidised by the Office.

   At those places of employment where internal Office demand exceeds availability on the local open market, the Office will at least continue to provide those Office facilities already in place whilst simultaneously encouraging the local community to expand the facilities on offer to staff of the Office.

2. Parental contribution for Office crèches

   The parental contribution is determined by the general fee schedule of the crèche operator. The contribution will be paid directly to the crèche operator.

3. Entry into force

   This Circular will enter into force on 1 September 2021.

Munich, 13 July 2021

The President of the European Patent Office
António Campinos

Circular No. 302
(20 December 2007)

Guidelines for applying Article 54 of the Service Regulations for permanent employees of the European Patent Office

Prolongation of service and communication of the date of retirement and annual leave plans

Article 54 of the Service Regulations has been amended to allow permanent employees to work beyond the age of 65 (up to 68) under mutual agreement and to introduce the obligation to communicate the date of retirement and annual leave plans before retiring.

The present Circular is applicable only to those employees for whom the appointing authority is the President of the Office.

I. Prolongation of service beyond the age of 65 (up to 68) under mutual agreement

1. The decision on prolongation of service lies with the President of the Office.
2. A permanent employee in active service may submit a request to carry on working beyond the age of 65 and up to 68 at the latest nine months prior to the date on which he reaches the age of 65.
3. The request shall be submitted via the normal line management channels to the President. A copy of the request will be sent by the immediate superior to the Personnel Department. The request shall indicate the desired duration of prolongation.
4. With the administrative assistance of the Personnel Department and after consulting the employee's superiors, the President will decide on the request. The decision shall be taken with due consideration to the interest of the service, as laid down in the Annex. The decision shall also specify the agreed duration of prolongation of service.
5. The employee concerned shall be notified of the decision within two months from the date on which the request was made and, at the latest, seven months prior to the date on which he reaches the age of 65. The Personnel Department shall also be informed of the decision and charged with its administrative implementation.
6. The prolongation of service expires at the end of the agreed period, at which time the employee is retired automatically.

7. Should the employee wish for a subsequent prolongation, he shall, four months prior to the end of the agreed period, submit a new request according to paragraphs 3, 4 and 5 above, except for the time limit laid down in paragraph 5, which shall be three months prior to the end of the first agreed period of prolongation.

8. In exceptional cases, the Office may waive the time limits set out in paragraphs 2 and 7.

II. Information on the date of commencement of retirement and annual leave plans before retiring

A permanent employee shall inform the Personnel Department in writing, via his immediate superior, of the date of his retirement and of his annual leave plans, at least three months prior to retirement.

III. Entry into force and transitional measures

1. These guidelines will enter into force on 1 January 2008.

2. The time limits for the request and decision on prolongation of service laid down in paragraphs 2 and 5 of section I shall not apply to employees who reach the age of 65 between 1 January and 30 September 2008. Any employee to whom this applies and who is interested in the prolongation of his service shall submit a request by 31 January 2008.

3. Notwithstanding the time limit set in section II, employees who wish to retire between 1 January and 1 April 2008 shall inform the Personnel Department of the date of commencement of their retirement and of their annual leave plans by 31 January 2008.

Curt Edfjäll
Vice-President DG 4

ANNEX

EVALUATION OF THE INTEREST OF THE SERVICE

A two-step approach will be followed to evaluate the interest of the service relating to the prolongation of service of an employee after the age of 65. The first step will comprise the assessment of the need of the service. Only if the need has been established will the suitability of the employee to fulfil the identified need be assessed.

1. Criteria relating to the service are, inter alia:

    - workload in a specific area
    - necessity of continuity to complete a task or a project
    - management of succession planning (e.g. knowledge transfer, age structure, training needs)
    - other organisational reasons

2. Criteria relating to the individual employee are, inter alia:

    - appropriate qualifications and expertise
    - performance record
    - estimated work capacity
    - staff member's motivation

3. The employee may be requested to undergo a medical examination in order to establish whether it is likely that the physical requirements of the post will continue to be met during the prolongation of the service.

New time limits[1]

From 1 October 2006, staff requesting allowances and reimbursements must observe certain time limits

On 30 June 2006, the Administrative Council amended Articles 65 and 76 ServRegs, introducing time limits for requesting allowances and reimbursements. The new rules, effective from 1 October 2006, are explained below.

Article 65 (Payment of remuneration)

Amended sub-paragraph 1(c), new sub-paragraph 1(d)

Allowances under Article 67(1) ServRegs, i.e.

- household allowance
- dependants' allowance
- education allowance
- expatriation allowance
- installation allowance
- rent allowance
- language allowance

must be requested **within six months** of the date on which entitlement commences, unless the ServRegs provide otherwise (as they do for the education allowance). Allowances requested after that period will be granted retroactively but only for the preceding six months - except in duly substantiated cases of force majeure, such as a long illness.

Any change which may affect entitlement to any of the above allowances (e.g. marriage, divorce, dependent child's completion of education) must be notified immediately to the President of the Office (via personnel department).

Article 76 (Reimbursement and advances)

New paragraph 3

Reimbursement of the expenses referred to in Article 76(1) ServRegs, i.e. incurred

- in the course of or in connection with the performance of EPO duties
- on taking up appointment, transfer or leaving the service
- on taking home leave

must be requested **within six months** of the date on which they were incurred. Requests submitted after that period, or (as in the case of removal expenses) another time limit laid down in the ServRegs, are reimbursable only in duly

1 Gazette 10/06

substantiated cases of force majeure, such as a long illness. The expenses concerned are those referred to in Section 4 of the ServRegs, i.e.

- daily subsistence allowance (Articles 77 and 78)
- duty travel expenses (Articles 77 and 79)
- other travel expenses – on taking up appointment, transfer, home leave, or leaving the service (Article 80)
- removal expenses (Article 81)
- entertainment expenses (Article 82)

In the past, requests for the grant or adjustment of monthly allowances or for reimbursement of travel, removal or entertainment expenses were sometimes submitted a long time after the event. This caused extra administrative work and complicated the request process generally. The time limits in force from 1 October 2006 will help to keep payments up to date and allow requests for adjustments to be dealt with promptly.

This notice is purely for information; only the amended ServRegs provisions have legal force.

Hubert Kleine,

Personnel Administration

For more details, see Council decision CA/D 4/06.

Circular No. 308
(25 August 2008, 19 December 2024)

Employees promoted for a limited duration to posts classified in job groups 3 or 2

Article 1
Scope

1. This circular applies to employees who are promoted to posts classified in job groups 3 or 2, except Boards of Appeal members and chairs. This circular does not apply to employees promoted to posts classified in job groups 5 or 4, whose promotion may not be limited in time.

2. This circular applies without prejudice to Article 8 of the Service Regulations and does not create any entitlements to the extension or conversion of a fixed-term appointment upon expiry of the promotion's duration.

Article 2
Duration of the promotion

The promotion is initially granted for a limited duration of up to five years and may be extended. Article 13 of the Service Regulations on probationary period applies.

Article 3
Assignment to a grade upon promotion

Upon promotion, the employee is assigned to a grade and step in the higher job group in accordance with Article 49(5) of the Service Regulations.

Article 4
Eligibility to rewards

During the promotion, the employee is eligible for rewards within this higher job group.

Article 5
Reinstatement

1. If the employee is permanent, they will be reinstated upon expiry of the promotion's duration or earlier at their request in a post corresponding to their former job group for which they satisfy the requirements.

2. If the employee is on a fixed-term appointment, then subject to the needs of the service, the President may decide to reinstate them upon expiry of the promotion's duration or earlier at their request in a post corresponding to their former job group for which they satisfy the requirements.

Article 6
Assignment to a grade and step upon reinstatement

1. Upon reinstatement, the employee is assigned to the grade and step that they held before the promotion to the post, to which is added either:

   - the advancements in grade and step awarded under Article 4; or
   - the number of advancements in grade and step based on the duration of the promotion as listed in the table below:

Duration of promotion	Advancements in grade and step
5 years	3 advancements
At least 3 years	2 advancements
At least 2 years	1 advancement

   whichever is higher. These advancements are cumulative if the total duration of the promotion exceeds five years, at which point their calculation restarts.

2. The grade and step assigned after reinstatement will remain within the limit of the highest grade and step of the job group to which the employee is reinstated, and also within the limit of the last grade and step held before reinstatement.

Article 7
Pension rights

Where an employee retires at a grade and step lower than that which they had previously held in the Office, Article 5(3) of the Pension Scheme Regulations or Article 5(3) of the New Pension Scheme Regulations respectively applies.

Circular No. 317
(16 July 2009, 19 December 2019, 2 June 2020,
24 January 2022, 16 January 2025)

applying Article 65(3) of the Service Regulations and its implementing rule

Investment strategies and procedures for the salary savings plan

Article 1 – Introduction

At its 115th meeting in October 2008, the Administrative Council adopted the salary savings plan (SSP) as a complement to the New Pension Scheme applicable to employees taking up their duties on or after 1 January 2009.

In accordance with section I.C(4) of the Implementing Rule to Article 65(3) of the Service Regulations, the Office offers SSP participants a maximum of three investment strategies.

Participants may choose to change their investment strategy once per calendar year. The procedure for communicating this choice is laid down in Article 3 below.

The procedure for payment of the SSP lump sum on termination of service is set out in Article 4 below.

The investment risk is borne by the participants.

Article 2 – Investment strategies

The Office offers three investment strategies which are listed below. More detailed information on the investment strategies and underlying investments is available via the SSP portal at www.epo-ssp.eu and in the annex.

A. Strategy No. 1: Life-cycle strategy as default option

The life-cycle strategy is the core strategy of the SSP and is initially applied by default to all new participants. The life-cycle strategy is aimed at long-term growth while minimising the portfolio's volatility as the target date approaches.

B. Strategy No. 2: Conservative multi-asset strategy

The conservative multi-asset strategy is based on a conservative portfolio with a maximum of 20% equity. It is designed to generate moderate long-term capital growth through some exposure to equities in addition to the more conservative investments in fixed income and/or cash. The aim is to achieve a return on investment above the average return on government bonds, based on a conservative risk profile.

C. Strategy No. 3: Short-term investment strategy

The short-term investment strategy consists of investments in high-quality fixed-income securities and money-market instruments. This makes it a low-risk option well suited to short periods of investment with a relatively low expected return but therefore less interesting for long-term investments.

Article 3 – Procedure for communicating a change in investment strategy

For the first six months of employment at the Office, the life-cycle strategy is compulsory and cannot be changed. After that, SSP participants can choose to change the strategy for investment of both their existing savings and their future contributions once per calendar year. They will be reminded of this possibility towards the end of the initial six-month period. They can make the change via the online portal at www.epo-ssp.eu.

Participants may choose one of the three currently available investment strategies. If they choose strategy No. 1, they may select a life-cycle strategy with a different investment horizon.

If they change their strategy on or before the 15th of the month, the change will be applied to their savings by the 20th of that month. If the change is made after the 15th, it will take effect by the 20th of the following month. The same goes for their future contributions: a change made on or before the 15th of the month will be applied as from the contribution paid that month; a change made later in the month will be processed in the following month.

For participants who do not opt to change their investment strategy after the initial six-month period, the default life-cycle strategy will continue to apply. However, the option of switching to a different strategy will remain open to them indefinitely.

Article 4 – Procedure for payment of SSP lump sum on termination of service

The provisional amount accumulated by a participant in their individual salary savings account, after deduction of any social security contributions, is calculated during their last month of service. This provisional amount (or a portion of it) is then paid out as a lump sum with their last salary.

The individual account will be cleared in the month following termination of service. The final amount of the SSP lump sum will be calculated on the basis of the share value observed at the latest on the fifth working day of that month. If the final amount is higher than the provisional amount, the balance will be paid out to the former employee; if it is lower, the former employee must repay the difference within one month of the date of notification of the final calculation.

Article 5 – Entry into force

This circular enters into force on 16 January 2025.

Munich, 16 January 2025.

The President of the European Patent Office
António Campinos

ANNEX

A. Overview of the investments

Overview of investment strategies and underlying investments available under the salary savings plan as at 16 January 2025.

Underlying investment funds	ISIN
1. Life-cycle strategy **(see section B below for further details)**	
Short-term investment: BlackRock ICS Euro Ultra Short Bond Fund	IE00BFZD2244
European equity: iShares Core MSCI Europe UCITS ETF EUR	IE00B4K48X80
Global equity: iShares Core MSCI World UCITS ETF	IE00B4L5Y983
Emerging market equity: iShares MSCI EM UCITS ETF USD	IE00B4L5YC18
European bonds: iShares Euro Aggregate Bond Index Fund	LU0826455353
2. Conservative multi-asset strategy	
Conservative multi-asset portfolio: iShares Euro Aggregate Bond Index Fund (80%) iShares Core MSCI World UCITS ETF (20%)	 LU0826455353 IE00B4L5Y983
3. Short-term investment strategy	
BlackRock ICS Euro Ultra Short Bond Fund	IE00BFZD2244

B. Investment horizon in life-cycle strategy (Strategy No. 1)

By default, the life-cycle strategy is based on an investment horizon defined by years remaining until the SSP participant's expected retirement year (i.e. year of birth + 65 years). The plan participants may select other horizons, which must be defined in full years.

The proportion invested in the funds shown under the life-cycle strategy will change as each individual's investment horizon varies. Participants with a longer investment horizon will be invested in a portfolio containing predominantly equities, while participants with a shorter investment horizon will be invested in a portfolio containing a large share of lower-risk assets such as fixed income and cash. The portfolio's asset allocation will automatically move from a higher equity portion at the beginning to a more conservative mix as the target date approaches. Such a strategy aims at long-term growth while reducing the portfolio's risk over time.

The table below presents the investment allocation for the investment horizons.

Life-cycle strategy: investment horizon (years until retirement year)	Quarter of current year	Global Equity	Euro-pean Equity	Emerging Market Equity	EUR Aggre-gate Bond	Short term
All periods aove 21 years	Not relevant	50.0%	30.0%	20.0%	0.0%	0.0%
21	first quarter	50.0%	30.0%	20.0%	0.0%	0.0%
21	second quarter	50.0%	30.0%	20.0%	0.0%	0.0%
21	third quarter	50.0%	30.0%	20.0%	0.0%	0.0%
21	fourth quarter	49.9%	29.9%	19.9%	0.3%	0.0%
20	first quarter	49.8%	29.9%	19.9%	0.4%	0.0%
20	second quarter	49.7%	29.8%	19.9%	0.6%	0.0%
20	third quarter	49.6%	29.8%	19.8%	0.8%	0.0%
20	fourth quarter	49.5%	29.7%	19.8%	1.0%	0.0%
19	first quarter	49.3%	29.6%	19.7%	1.5%	0.0%
19	second quarter	49.0%	29.4%	19.6%	1.9%	0.0%
19	third quarter	48.8%	29.3%	19.5%	2.5%	0.0%
19	fourth quarter	48.5%	29.1%	19.4%	3.0%	0.0%
18	first quarter	48.2%	28.9%	19.3%	3.6%	0.0%
18	second quarter	47.9%	28.8%	19.2%	4.1%	0.0%
18	third quarter	47.6%	28.6%	19.1%	4.8%	0.0%
18	fourth quarter	47.3%	28.4%	18.9%	5.4%	0.0%
17	first quarter	47.0%	28.2%	18.8%	6.1%	0.0%
17	second quarter	46.6%	28.0%	18.7%	6.7%	0.0%
17	third quarter	46.3%	27.8%	18.5%	7.5%	0.0%
17	fourth quarter	45.9%	27.5%	18.4%	8.2%	0.0%
16	first quarter	45.5%	27.3%	18.2%	9.0%	0.0%
16	second quarter	45.1%	27.1%	18.1%	9.7%	0.0%
16	third quarter	44.7%	26.8%	17.9%	10.6%	0.0%
16	fourth quarter	44.3%	26.6%	17.7%	11.4%	0.0%
15	first quarter	43.9%	26.3%	17.6%	12.3%	0.0%
15	second quarter	43.4%	26.1%	17.4%	13.1%	0.0%
15	third quarter	43.0%	25.8%	17.2%	14.1%	0.0%
15	fourth quarter	42.5%	25.5%	17.0%	15.0%	0.0%
14	first quarter	42.2%	25.3%	16.9%	15.6%	0.0%
14	second quarter	41.9%	25.2%	16.8%	16.1%	0.0%

Life-cycle strategy: investment horizon (years until retirement year)	Quarter of current year	Global Equity	Euro-pean Equity	Emerging Market Equity	EUR Aggre-gate Bond	Short term
14	third quarter	41.6%	25.0%	16.7%	16.8%	0.0%
14	fourth quarter	41.3%	24.8%	16.5%	17.4%	0.0%
13	first quarter	41.0%	24.6%	16.4%	18.1%	0.0%
13	second quarter	40.6%	24.4%	16.3%	18.7%	0.0%
13	third quarter	40.3%	24.2%	16.1%	19.5%	0.0%
13	fourth quarter	39.9%	23.9%	16.0%	20.2%	0.0%
12	first quarter	39.5%	23.7%	15.8%	21.0%	0.0%
12	second quarter	39.1%	23.5%	15.7%	21.7%	0.0%
12	third quarter	38.7%	23.2%	15.5%	22.6%	0.0%
12	fourth quarter	38.3%	23.0%	15.3%	23.4%	0.0%
11	first quarter	37.9%	22.7%	15.2%	24.3%	0.0%
11	second quarter	37.4%	22.5%	15.0%	25.1%	0.0%
11	third quarter	37.0%	22.2%	14.8%	26.1%	0.0%
11	fourth quarter	36.5%	21.9%	14.6%	27.0%	0.0%
10	first quarter	36.0%	21.6%	14.4%	28.0%	0.0%
10	second quarter	35.5%	21.3%	14.2%	28.9%	0.0%
10	third quarter	35.0%	21.0%	14.0%	30.0%	0.0%
10	fourth quarter	34.5%	20.7%	13.8%	31.0%	0.0%
9	first quarter	34.0%	20.4%	13.6%	32.0%	0.0%
9	second quarter	33.5%	20.1%	13.4%	33.0%	0.0%
9	third quarter	32.9%	19.8%	13.2%	34.1%	0.0%
9	fourth quarter	32.4%	19.4%	13.0%	35.2%	0.0%
8	first quarter	31.8%	19.1%	12.7%	36.3%	0.0%
8	second quarter	31.3%	18.8%	12.5%	37.4%	0.0%
8	third quarter	30.7%	18.4%	12.3%	38.6%	0.0%
8	fourth quarter	30.1%	18.1%	12.0%	39.8%	0.0%
7	first quarter	29.5%	17.7%	11.8%	41.0%	0.0%
7	second quarter	28.9%	17.3%	11.6%	42.2%	0.0%
7	third quarter	28.2%	17.0%	11.3%	43.5%	0.0%
7	fourth quarter	27.6%	16.6%	11.0%	44.8%	0.0%
6	first quarter	26.9%	16.2%	10.8%	46.1%	0.0%
6	second quarter	26.3%	15.8%	10.5%	47.4%	0.0%

Life-cycle strategy: investment horizon (years until retirement year)	Quarter of current year	Global Equity	Euro-pean Equity	Emerging Market Equity	EUR Aggre-gate Bond	Short term
6	third quarter	25.6%	15.4%	10.2%	48.8%	0.0%
6	fourth quarter	24.9%	14.9%	10.0%	50.2%	0.0%
5	first quarter	24.2%	14.5%	9.7%	51.6%	0.0%
5	second quarter	23.5%	14.1%	9.4%	53.0%	0.0%
5	third quarter	22.7%	13.7%	9.1%	54.5%	0.0%
5	fourth quarter	22.0%	13.2%	8.8%	56.0%	0.0%
4	first quarter	21.0%	12.6%	8.4%	57.9%	0.0%
4	second quarter	20.1%	12.1%	8.0%	59.8%	0.0%
4	third quarter	19.1%	11.5%	7.6%	61.8%	0.0%
4	fourth quarter	18.1%	10.9%	7.2%	63.8%	0.0%
3	first quarter	17.1%	10.3%	6.8%	65.8%	0.0%
3	second quarter	16.1%	9.7%	6.4%	67.8%	0.0%
3	third quarter	15.0%	9.0%	6.0%	69.9%	0.0%
3	fourth quarter	14.0%	8.4%	5.6%	72.0%	0.0%
2	first quarter	12.8%	7.7%	5.1%	74.5%	0.0%
2	second quarter	11.5%	6.9%	4.6%	76.9%	0.0%
2	third quarter	10.3%	6.2%	4.1%	79.5%	0.0%
2	fourth quarter	9.0%	5.4%	3.6%	79.0%	3.0%
1	first quarter	8.8%	4.8%	2.4%	75.6%	8.4%
1	second quarter	8.4%	4.2%	1.4%	70.3%	15.7%
1	third quarter	7.8%	3.6%	0.6%	63.1%	24.9%
1	fourth quarter	7.0%	3.0%	0.0%	54.0%	36.0%
0	first quarter	5.5%	2.3%	0.0%	43.1%	49.1%
0	second quarter	3.9%	1.7%	0.0%	30.3%	64.2%
0	third quarter	2.3%	1.0%	0.0%	15.6%	81.1%
0	fourth quarter	0.0%	0.0%	0.0%	0.0%	100.0%
0	first quarter of retirement year and all subsequent quarters	0.0%	0.0%	0.0%	0.0%	100.0%

Circular No. 319
(14 December 2009, 1 March 2012, 1 April 2014, 30 July 2015[1])

Guidelines on duty travel

(See also Articles 77, 78 and 79 Service Regulations)

Rule 1
Implementing the duty travel budget

(1) Limited funds are available for duty travel every year. Pursuant to the Financial Regulations, budgets must be used with thrift and economy. Meetings should therefore be scheduled so as to use the duty travel budget as efficiently as possible.

(2) Duty travel may only be approved if it is necessary, that is, if the business cannot reasonably be conducted in any other way, such as by video conference.

(3) If a permanent employee has to undertake duty travel for several purposes, the events should be combined whenever possible and approved by the budget holder(s) concerned.

(4) Internal EPO meetings should in principle be held at the place of employment at which the majority of participants are employed.

(5) In accordance with the provisions of Article 77(1), duty travel at the place of employment does not create entitlement to the daily subsistence allowance. Duty travel cost at the place of employment will be compensated by a lump-sum amount. The lump-sum amount is equivalent to the cost of a one day ticket for use of the public transport network at the place of employment. These lump-sum amounts will be updated regularly on the basis of the cost of public transport and published on the intranet. For the application of this paragraph, the place of employment shall be regarded as the radius up to 25 km from the address of the Office premises where the permanent employee is employed.

(6) Pursuant to Article 77 (4), transport between Office premises at the place of employment is not duty travel.

(7) Flights on the main routes shall be booked on the basis of the lowest fare available at the time of booking in the intended travel class. Derogations may be explicitly granted by the budget holder in duly substantiated exceptional situations.

1 See CA/D 10/14 Article 61 and 62.

Rule 2
Submitting duty travel requests

(1) Before submitting a request for duty travel, the permanent employee must obtain the approval of his line manager for him to be absent from his place of employment, except where the provisions of Communiqué No. 45 apply.

(2) Duty travel requests must be submitted via the electronic duty travel system in MyFIPS. The duty travel request will then be automatically forwarded to the budget holder(s) and copied electronically to the permanent employee's line manager. If the line manager disagrees with the permanent employee's absence, he may ask the budget holder(s) to stop the duty travel request, except where the provisions of Communiqué No. 45 apply. Where there is disagreement between the line manager and the budget holder(s), the opinion of the line manager will prevail. No duty travel may be booked until it has been approved by the budget holder(s).

(3) Approval of the duty travel request by the budget holder(s) is communicated electronically, in the form of a duty travel order, to the permanent employee and the Office's travel agency. Once the permanent employee has received the electronic approval, he should make his travel bookings and, where appropriate, any hotel reservation through the Office's travel agency, bearing in mind the provisions of Rule 3(2).

(4) On his return from duty travel, the permanent employee should submit his electronic duty travel claim to HR Travel Administration for final settlement.

Rule 3
Daily subsistence costs (Article 78 ServRegs)

(1) The increase in the daily subsistence allowance to cover miscellaneous expenses within the meaning of Article 78(1)(f) ServRegs is 3.82%. Examples of miscellaneous expenses are: administrative charges for use of a credit card, use of the internet, local transport at the travel destination (excluding transport to and from the airport) and use of a private mobile phone.

(2) In cases where expenditure on accommodation (room, breakfast and taxes) exceeds 60% of the daily subsistence allowance, payment of a 30% supplement pursuant to Article 78(4) ServRegs is made, on condition that the accommodation has been recommended and booked via the Office's travel agency, or is part of a conference arrangement approved by the budget holder(s).

(3) If the permanent employee has incurred unavoidable daily subsistence costs which cannot reasonably be considered as being covered by the daily subsistence allowance, the budget holder(s) may approve an exceptional reimbursement. Such reimbursement must be duly justified in writing and based on original receipts.

(4) Where, pursuant to Rule 4(12), the permanent employee is authorised to organise his own travel arrangements or has extended his travel for private reasons, the departure and arrival times for the daily subsistence allowance calculation are those which would have applied without such private arrangements.

Rule 4
Reimbursement of transportation expenses (Article 79 ServRegs)

(1) With the exception of the travel referred to in paragraphs 4, 6 to 9 and 12, all travel has to be booked via the Office's travel agency.

(2) For a journey of 400 km or less and involving no sea crossing, first-class travel by train is considered to be the most economical mode of transport.

(3) For a journey of over 400 km, the permanent employee is authorised to travel by air, on the following conditions:

(a) In the case of travel between the Office's places of employment, the tariff chosen should be the most economical fare at the time of the booking for a direct-flight business-class ticket providing the flexibility to reschedule or cancel. If, exceptionally, it is not possible or feasible to travel back on such a ticket, the Office will allow a single flight with another airline.

(b) For all other flights within Europe, the cheapest flexible business-class fare available should be chosen, irrespective of the airline used.

(c) For business-class flights outside Europe, the arrangements negotiated by the Office are mandatory, unless they involve more than one stopover in each direction and the additional travel time compared with a direct flight is more than three hours each way. In such circumstances, the cheapest flexible fare available should be chosen (direct flight, or one stopover if no direct flight is available), irrespective of the airline flown.

(d) If, exceptionally, overriding scheduling or operational constraints require a deviation from the above rules, the budget holder(s) may authorise the use of specific flights or airlines.

(4) Where, in the interests of the Office, the permanent employee is requested by the budget holder(s) to travel by his own car, he is entitled to the kilometric allowance applicable at the permanent employee's place of employment, as set out in the Annex to the present Guidelines. Special charges, such as tolls or car ferry charges, will be reimbursed on the basis of original receipts.

(5) For duly justified reasons, the budget holder(s) may request the permanent employee to travel by a different mode of transport or a different class from that applicable under these provisions. The permanent employee may however refuse to travel on a non-flexible flight ticket.

(6) Taxi costs are subsidiary expenses within the meaning of Article 79(2) ServRegs. They will be reimbursed in the following circumstances;

(a) Public transport is not available or cannot be used for justified reasons, such as very heavy or bulky luggage being transported for Office purposes (where possible, prior approval should be obtained from the budget holder(s)).

(b) (i) Taxi costs will be reimbursed for travel to the airport, port or trainstation if the plane, boat or train is scheduled to depart before 09.00 hrs or after 20.00 hrs.

(ii) Taxi costs will be reimbursed for travel from the airport, port or train station if the plane, boat or train arrives after 20.00 hrs.

(c) Permanent employees in job group 2 and higher will be refunded the taxi cost to and from the airport, port, or train station without the limitations set out in (b).

(d) On the recommendation of the Office's Occupational Health Physician.

(7) Taxis should, whenever possible, be shared with other staff members and the fare reimbursement claimed by the permanent employee who paid the taxi driver.

(8) Except for the provisions of paragraph 9, reimbursement of taxi costs must be claimed on the basis of original receipts.

(9) For transport to and from airports at the EPO's places of employment, a lump-sum amount is paid to compensate for use of public transport or, subject to paragraph 6, taxis. These lump-sum amounts will be updated regularly on the basis of the cost of public transport and the fares charged by taxi providers. Information on the public transport available and the names of taxi providers offering their services for the amounts reimbursed will be published on the intranet.

(10) Permanent employees using their own car for transport to and from the airport at their place of employment will be reimbursed the lump-sum amounts referred to in paragraph 9, subject to the conditions set out in paragraph 6, for the start and end of their duty travel, respectively.

(11) The budget holder(s) may authorise the use of a rental car, if this is the most economical mode of transport. The car rental must include full insurance and cover accidents involving any passenger who may make use of the car in the interests of the Office. If the car rental period includes private travel time, a proportional amount will be charged to the permanent employee for the number of kilometres or days driven for private reasons.

(12) A permanent employee may be authorised by the budget holder(s) to organise his own travel arrangements for journeys to destinations in the EPO member states. If so, he will be paid a lump-sum amount for transport expenses, corresponding to 50% of the average kilometric allowance rate for Germany, the Netherlands and Austria as set out in the Annex to the present Guidelines.

(13) Permanent employees who organise their own travel arrangements are liable for risks such as cancellation fees and car, passenger and rental car insurance. Any time spent in excess of the approved duty travel is not considered as working time and should therefore be recorded as leave.

Rule 5
Extended duty travel (Article 78(6) ServRegs)

(1) For the first two months of extended duty travel, the permanent employee is entitled to the full daily subsistence allowance. For the third month, 40% of the daily subsistence allowance is paid. As from the fourth month, 25% of the daily subsistence allowance is paid.

(2) If, during extended duty travel, the permanent employee is required to undertake duty travel or takes leave, payment of the daily subsistence allowance is not suspended. Other duty travel expenses are payable in accordance with Article 79 ServRegs.

(3) The permanent employee is entitled to leave on public holidays at the location of the extended duty travel.

(4) The daily subsistence allowance will be paid in monthly instalments for the duration of the extended duty travel.

(5) Extended duty travel may not continue beyond 12 months.

Rule 6
Receipts

(1) It is not necessary to submit receipts for any duty travel expenses compensated for by lump-sum amounts under the provisions of these Guidelines or covered by the daily subsistence allowance referred to in Article 78(1) and (2) ServRegs.

(2) For reimbursement of duty travel expenses not falling under paragraph 1, the permanent employee must attach scanned evidence to his electronic statement of duty travel expenses for amounts in excess of EUR 50 per item.

(3) Expenditure not exceeding EUR 50 per item may be reimbursed on the basis of a personal declaration by the permanent employee concerned.

(4) In order to allow the Office to perform checks, the permanent employee must keep :

(a) original receipts of duty travel expenses not covered by a lump sum;

(b) original receipts of expenses for which the lump sum for high accommodation expenditure is paid (Rule 3(2));

(c) (electronic) boarding passes of flights

Such evidence must be kept until the full reimbursement of the duty travel expenses is made.

(5) When duty travel is funded by external providers, the budget holder(s) may require original receipts of all the duty travel expenses incurred.

Rule 7
Regular review

These Guidelines are subject to regular review.

ANNEX[1]

Guidelines on duty travel

Effective from 1 January 2025

Rates for the kilometric allowance Rule 4(4) and (12)	
for the car	
Belgium (EUR)	0.68
Germany (EUR)	0.58
Netherlands (EUR)	0.76
Austria (EUR)	0.70

1 Amended by decision of the President from 13 December 2024.

Circular No. 323
relating to employment of relatives
Decision of the President of the Office dated 11th March 2010, entering into force on 1st April 2010

Guidelines for applying Articles 15 (2) and 17 of the Service Regulations for permanent employees of the European Patent Office concerning the employment of relatives

Article 1
Employment of relatives of staff in a hierarchical relation

(1) A spouse, a partner within the meaning of Communiqué No. 284, a person with whom a staff member maintains an intimate relationship or a staff member's relative from the list below, shall be eligible for employment only if neither supervises the other, directly or indirectly.

(Step-) Mother	(Adopted) Son
(Step-) Father	(Adopted) Daughter
Sister	Mother-in-law
Half-sister	Father-in-law
Brother	Aunt
Half-brother	Uncle
Daughter-in-law	Niece
Son-in-law	Nephew
Sister-in-law	Cousin
Brother-in-law	

The terms "uncle" and "aunt" shall mean the brother and sister of a staff member's mother or father, whether the relationship is by blood, adoption or marriage; the term "cousin" shall mean the son or daughter of an uncle or aunt.

(2) Staff members are required to disclose any of the relationships mentioned in paragraph 1 above. If such a relationship arises after appointment, the Office shall transfer one of the two staff members under Article 12 (2) of the Service Regulations to another post where no hierarchical relation between them exists.

Article 2
Employment of relatives of staff in a non-hierarchical relation

In case of a relationship mentioned in Article 1, paragraph 1, where no hierarchical relation between the staff members exists, Articles 15 (2) and 17

of the Service Regulations apply, especially when the staff members work in the same department or unit, or when their duties bring them into routine professional contact.

Article 3
Membership of statutory bodies

No staff member shall be a chairman or member of a statutory body under Article 2 (1) (c), (d), (e) and (f) of the Service Regulations when called to issue an opinion affecting a relative in the meaning of Articles 1 and 2.

Circular No. 324
(14 April 2010)

Membership of the system established by the Office's Pension Scheme Regulations: transitional arrangements

The Office's New Pension Scheme Regulations and the salary savings plan are in principle applicable only to those members of the Office's staff referred to in Article 1 of the Service Regulations who first joined the Office on or after 1 January 2009.

In addition to those members of staff referred to in Article 1 of the Service Regulations who were in post on 1 January 2009 and were members of the Office's pension scheme on 31 December 2008, the following employees are members of the system established by the Office's Pension Scheme Regulations and do not participate in the salary savings plan:

1. permanent or contract staff taking up their duties on or after 1 January 2009 who were employed at the Office as contract staff on 31 December 2008;
2. permanent or contract staff taking up their duties on or after 1 January 2009 who had ended a previous period of employment at the Office as permanent or contract staff before that date, provided either that they have acquired deferred or early pension rights from their previous employment at the Office as permanent staff or that they pay back the severance grant they received on termination of their employment, the break in service in the latter case having lasted no longer than one year;
3. members of the boards of appeal and of the Enlarged Board of Appeal taking up their duties on or after 1 January 2009 who were employed, or had ended a previous period of employment, at the Office in a different capacity before that date, on the same conditions as in the preceding paragraphs as appropriate.

Any request to pay back a severance grant must be communicated by the Office to the employee concerned within six months of the date of his rejoining, and the employee must pay it back within twelve months of that same date. The total amount to be paid back is equal to the amount of the severance grant plus compound interest at a rate of 4% per annum from the date on which the employee received such amounts until the date of full repayment.

If repayment has not been completed by the end of the twelve-month period, the employee will thenceforth, automatically and retroactively, be a member of the New Pension Scheme and participate in the salary savings plan. In that case any sums already paid back will be refunded to the employee. The Office will convert the twelve months of pension scheme contributions into contributions to the New Pension Scheme and the salary savings plan. It will be under

no obligation to compensate the employee for any loss in the event that salary savings plan investments return a profit over the said twelve-month period.

This Circular enters into force with effect from 1 January 2009.

Circular No. 326
(24 November 2010)

Guidelines on removal expenses

(Article 81 ServRegs)

Rule 1
Entitlement

Entitlement to the lump sum compensation for removal expenses referred to in Article 81, paragraph 2 of the Service Regulations shall be based on the family situation of the permanent employee at the time the move has been completed. Account shall be taken of dependent family members within the meaning of Articles 69 and 70 of the Service Regulations who are resident with the permanent employee, including dependent children who are pursuing their studies away from home.

Rule 2
Claiming removal expenses

(1) Lump sum compensation for removal expenses shall be paid on production of a claim form stating the new address and the names of the dependent family members who have moved with the permanent employee to the residence at the new address.

(2) The permanent employee shall sign the said claim form on which he shall

(a) declare that he has noted the provisions of Article 14, sub paragraph (g) of the Protocol on Privileges and Immunities of the European Patent Organisation;
(b) state whether he is entitled to and/or has actually received reimbursement in connection with the same move from any other source;
(c) indicate the date on which the move was completed.

Rule 3
Payment

Lump sum compensation shall as a rule be paid in the month following the receipt of the claim form referred to in Rule 2, notwithstanding the possibility of an advance payment in accordance with the provisions of Article 76 of the Service Regulations.

Rule 4
Rates

(1) The rates of lump sum compensation referred to in Article 81, paragraph 2 of the Service Regulations are laid down in an Annex to these Guidelines.

(2) The distance bands indicated in the Annex represent the door-to-door distance in kilometres of a single direct move, via the shortest usual route, by ship or any land-based mode of transport.

(3) The lump-sum compensation rates shall be adjusted with effect from 1 January of each year by applying the arithmetical average rate of salary adjustment decided by the Administrative Council under Article 64, paragraph 6 of the Service Regulations for Austria, Germany and the Netherlands and backdated to 1 July of the preceding year.

(4) The lump sum compensation payable will be equivalent to the rate applicable on the day the move has been completed.

Rule 5
Verification and random checks

The Office may check any entitlement from other sources and will make random checks to verify that the move has actually taken place.

Rule 6
Entry into force and interim measure

(1) These guidelines will enter into force on 1 July 2010.

(2) Permanent employees in service on 30 June 2010 have the option between application of the provisions as in force on 30 June 2010, or application of the provisions as in force thereafter as far as it concerns, where applicable, their first consignment completed after 30 June 2010 in the meaning of Article 81 paragraphs (1) and (4) in force on 30 June 2010. In case a permanent employee in service on 30 June 2010 submits a request for a second consignment in the meaning of Article 81 paragraphs (1) and (4) the provisions as in force on 30 June 2010 apply. The transitional rule applies for the requests submitted until 30 June 2012.

ANNEX[1]

Rates of lump sum compensation under Article 81, paragraph 2 of the Service Regulations for permanent and other employees of the European Patent Office

Effective from 1 January 2025

Entitlement under Article 81(1)a) of the Service Regulations for permanent and other employees of the European Patent Office

Distance band	Employees entitled to household allowance	Employees **not entitled** to household allowance
100 km to 800 km inclusive	EUR 5 643	EUR 2 822
801 km or over	EUR 7 054	EUR 4 232
Supplement for each dependent person	EUR 988	

Entitlement under Article 81(1)b) and c) of the Service Regulations for permanent and other employees of the European Patent Office

Distance band	Employees entitled to household allowance	Employees **not entitled** to household allowance
100 km to 800 km inclusive	EUR 8 465	EUR 4 938
801 km or over	EUR 11 992	EUR 7 054
Supplement for each dependent person	EUR 1 411	

1 Amended by decision of the President from 13 December 2024.

Circular No. 336
(18 January 2012)

Method for payments into the RFPSS for the healthcare insurance scheme

1. BACKGROUND

The present circular describes the method for making payments into the RFPSS for the healthcare insurance scheme according to Council decisions CA/D 7/10 and CA/D 13/10. It also outlines the practical arrangements of its implementation. The way in which contributions for working spouses according to Art. 83 (1) (c) ServRegs are handled in this method is given special treatment.

Section 2 describes the **general method** to be applied from 2014 onwards according to decision CA/D 13/10.

Section 3 describes the **transitional method** for 2011-2013 under which the staff contribution rate is fixed at 2.4% according to decision CA/D 7/10.

Section 4 describes the practical aspects of the implementation.

2. GENERAL METHOD

According to Article 2 of the Administrative Council's decision CA/D 13/10 setting up a reserve fund for healthcare insurance, the payments to this fund shall be equal to the difference between reimbursements actually made to the beneficiaries and the contributions from the Office and from the insured persons:

> "[...]
> (3) Payments into this reserve fund shall be made from the budget of the European Patent Organisation; these payments shall correspond to the sum of the healthcare insurance contributions from the Office and from the insured persons, after deduction of payments for reimbursements actually made to the beneficiaries. These contributions shall result from application of CA/D 7/10 to the basic salaries, pensions and invalidity allowances paid.
> [...]"

2.1. Contributions for spouses in gainful employment

The term "insured persons" in Art. 2 of CA/D 13/10 includes spouses in gainful employment.

The term "reimbursements actually made to the beneficiaries" means that they are automatically net of costs covered by other schemes, but they must not be reduced by the amount of spouses contributions for the purpose of Art. 2 of CA/D 13/10.

The question is how to treat spouses contributions when making payments into the reserve fund according to Art. 2 of CA/D 13/10. The reasoning is as follows:

- The healthcare insurance scheme must cover the reimbursements to which the insured population is entitled under Art. 83 ServRegs.
- Since 2008 spouses in gainful employment must use their own schemes on a primary basis, so the total reimbursements to be financed by the EPO scheme are lower due to the costs covered by other schemes. These savings are shared by staff and Office at 1/3 and 2/3 respectively.
- By way of exception, a possibility to pay an additional premium was given to those working spouses who are not affiliated to another scheme,
- Therefore, the effect of spouses using their own insurance and the effect of spouses paying the EPO premium should be treated in the same way, i.e. both effects should reduce the total amount of reimbursements to be financed via the 9.2% total contribution rate.
- Indeed, the purpose is to have the same effect as if spouses paying a premium had taken out an insurance of their own. Should a working spouse decide to take out their own insurance and use it primarily, the final effect would remain consistent.
- The actuarial total contribution rate of 9.2% was calculated by the Actuarial Advisory Group to finance the long-term reimbursements made to the beneficiaries, net of reimbursements made by other schemes, but not net of spouses contributions. The reasons for this are technical. Firstly, spouses contributions are not a third party reimbursement which reduces automatically the reimbursements actually made to the beneficiaries. Secondly, the income to the scheme from spouses contributions can be very volatile from year to year and this would make it difficult to make an actuarial assumption.

Hence, in the meaning of Art. 2 of CA/D 13/10, the contributions for working spouses should be deducted from the total contributions of 9.2% of payroll, rather than from the "reimbursements actually made to the beneficiaries".

Also the Actuarial Advisory Group confirm in paragraph 54 of CA/139/10 (Actuarial study on healthcare funding) that the contributions for working spouses are meant as a further source to finance the actuarial total contribution rate of 9.2%, since this is in line with the method used to calculate the actuarial contribution rate:

"54. This *[the total contribution rate of 9.2%]* will be financed from three sources: the Office contribution, the staff *[incl. pensioners]* contribution and the contributions paid by working spouses."

2.2. General formula for determining transfers to the RFPSS

Considering the above, the transfer to the fund for a certain year is calculated as follows, after due consideration of Art. 83 (1) (e) ServRegs (i.e. changes

to contribution rate from 2014 onwards cannot change more than 10% each year)[1].

Since the spouses contributions paid in a year are only known when the year is finished, for the calculation of the initial contribution rate for staff and Office they must be estimated based on past experience (currently ca. 1m EUR per year).

With a share of contributions of 1/3 for staff and 2/3 for the Office, the initial contribution rates are:

Initial staff contribution rate	=	1/3 x (9.2% x payroll - estimated spouses contributions)
	=	ca. 3,02%
Initial Office contribution rate	=	2/3 x (9.2% x payroll - estimated spouses contributions)
	=	ca. 6,04%

Transfer to the fund:

+	Office contributions (ca. 6.04% x payroll)	- (9,2% x payroll)
+	Staff and pensioners contributions (ca. 3.02% x payroll)	
+	**Spouses contributions**	
-	Reimbursements actually made in the year (net of costs covered by other schemes)	
=	transfer to the fund	

3. PROVISIONAL METHOD FOR THE PERIOD 2011-2013

Articles 3 and 4 of decision CA/D 7/10 lay down the transitional arrangements for the period 2011-2013 according to which the staff contribution rate for those years is fixed at 2.4% of basic salaries and pensions and the Office shall cover the difference between 9.2% and 3 x 2.4% = 7.2%, i.e. 2%. This results in a total **Office contribution** of 2 x 2.4% + 2% = **6.8%**.

This is equal to saying that the Office pays the difference between the actuarial total contribution rate of 9.2% and the staff contribution rate of 2.4%, which results in a total Office contribution rate of 6.8% of basic salaries and pensions for 2011-2013.

> "Article 3
>
> In the years 2011 to 2013, a comparison shall be made between the actuarially calculated total contribution rate and three times the employee's maximum contribution rate specified in Article 83 of the

1 Cf. paragraph 63 of CA/139/10 Corr. 1

Service Regulations. Any shortfall shall be funded by the Office, primarily by using the credit balance at Vanbreda in the accounts of the Organisation.

Article 4

During the years 2011, 2012 and 2013, the contributions to be paid by staff shall be kept at 2.4% of their basic salaries."

Transfer to the fund:

+	Office contributions (6.8% x payroll)	- (9,2% x payroll)
+	Staff and pensioners contributions (2.4% x payroll)	
+	**Spouses contributions**	
-	Reimbursements "net of costs covered by other schemes"	
=	Transfer to the fund	

Since Article 3 is not explicit about how to consider spouses contributions, it is understood that spouses contributions during 2011-2013 are not used as an additional source to finance the actuarial total contribution rate of 9.2% but that they are transferred additionally to the fund. This would improve the funding of the scheme by about 3m EUR over the three years period.

4. PRACTICAL ASPECTS

4.1. Monthly advance payments to the RFPSS and annual final settlement

Monthly advance payments: On a monthly basis, the "reimbursements actually made" (cf. Art. 2 of CA/D 13/10) fluctuate considerably, sometimes even exceeding contributions. Furthermore, reimbursements made in a certain month are only known a few days after the end of the month, i.e. after the monthly contributions of a certain payroll run are known. Therefore the monthly payments to the fund can only be based on an estimation. This estimation is based on the average monthly reimbursements of the previous year plus an inflation factor based on past experience.

Annual final settlement: Once the year is over, a final settlement needs to be made taking into account all reimbursements actually made in that year and all contributions actually paid.

4.2. Provisional method applied since January 2011

Since 1 January 2011, contributions for working spouses are considered as follows:

Fixed staff contribution rate	=	2.4% x payroll
Initial Office contribution rate	=	9.2% x payroll
	-	2.4% x payroll
	-	estimated spouses contributions
	=	6.67%

On a **monthly** basis, the following advance payments are transferred to the fund:

+ Office contributions (6.67% x payroll)
+ Staff and pensioners contributions (2.4% x payroll)

] - (9,2% x payroll)

+ Spouses contributions

- Average estimated monthly reimbursements

= transfer to the fund

A retroactive adjustment to reflect the method under section 3 above will be made.

Wolfram Förster
Acting Vice-President DG 4

Circular No. 339
(20 December 2012, 16 October 2023)

Guidelines for overtime, shift work and on-call duty

Articles 57, 58, 58a and Circular No. 38

Decision of the President of the European Patent Office dated 16 October 2023, applicable with effect from 16 October 2023.

Preamble

These guidelines describe the processes, responsibilities and arrangements for the delegation of authority relating to overtime, shift work and on-call duty applicable to permanent employees and employees on fixed-term appointments - hereinafter referred to as "employees" - as defined in Article 1, paragraphs (1) and (7) of the ServRegs.

I. Overtime (Article 57)

(1) Pursuant to Article 57 ServRegs an employee may not be required to work overtime except in cases of urgency or exceptional pressure of work. A maximum of 150 overtime hours in any six-month period applies.

(2) Urgency or exceptional pressure of work is considered to exist when work cannot be performed within the normal working day by the employees available.

(3) Any maintenance, repair, test or installation of Office software and equipment that cannot take place during normal working hours for reasons of service requirements may constitute particular circumstances justifying overtime.

(4) Any request to work overtime must be justified and the justification kept available for management and audit purposes.

(5) Compensatory leave shall be granted as soon as possible but at the latest during the month following the month in which overtime was worked. Only when the requirements of the service do not permit compensation during this period may the overtime hours worked be compensated for by the payment of remuneration.

(6) The Guidelines on arrangements for working hours, in particular Article 1, paragraph (2), Article 3, paragraphs (4) and (5) and Article 8, paragraph (3), must be respected. The line manager must remain alert to any negative consequences for the health and safety of the employee. Management must notably ensure that the minimum rest periods between working days and working weeks are respected.

(7) Overtime between 22.00 and 07.00 hrs, as well as overtime during weekends and on public holidays may only be requested when the work

cannot be performed for justified reasons at any other time outside the normal working week.

(8) The requirement to work overtime must be communicated to the employee by the line manager or the line manager's deputy, who should assess and decide on the urgency, exceptional work pressure, or particular circumstances. Except in cases of urgency, this requirement must be communicated to the employees concerned in advance.

(9) Overtime is of temporary nature and may not become part of normal working patterns. Any recurrent duties that require work to be performed outside office hours may be subject to the shift provisions of Article 58.

(10) The line manager is responsible for:

(a) except in cases of urgency, issuing detailed instructions to the employees concerned well in advance. These instructions justify the requirement to work overtime and set out the possible duration of that requirement.
(b) in cases of urgency, where there is no time to issue prior written instructions, issuing an ad-hoc instruction to perform overtime, either orally or by other means of communication, to be followed by written confirmation of the instruction.
(c) guiding and monitoring the overtime worked by employees in their department, ensuring that the statutory breaks, rest periods and the maximum of 48 weekly working hours (including overtime) are complied with in accordance with the Guidelines on arrangements for working hours. The Office's Occupational Health Policy must be adhered to at all times.
(d) monitoring and assessing the overtime hours worked by each of their employees.
(e) approving on a monthly basis the overtime hours performed by their employees.
(f) notifying the relevant HR departments on compensation by means of time off or, when the requirements of the service do not permit compensatory leave during the month following the month in which overtime was worked, by means of remuneration, and informing the employees concerned accordingly.
(g) ensuring that the maximum of 150 overtime hours in any six-month period is not exceeded by any one employee.

(11) An employee working part-time in accordance with the provisions of Article 56 and Circular No. 34 of the ServRegs may exceptionally be requested to work overtime. In such cases, the provisions of Article 8(4) of the Guidelines on arrangements for working hours apply.

(12) Employees on any type of leave or absence or on reduced working time for medical reasons following an opinion by the medical practitioner chosen by the President of the Office may not be requested to work overtime.

II. Shift work (Article 58)

(1) Pursuant to Article 58 ServRegs, an employee who is expected to perform shift work as required by the exigencies of the service will be compensated by time off or, exceptionally, by the payment of remuneration. The normal working hours of an employee on shift must not exceed the annual total of normal working hours.

(2) Shift work is required in departments with 24-hour service continuity. These departments are defined by the President of the Office.

(3) The requirement to perform shift work will be communicated to the employee in writing by their line manager after prior agreement of the principal director or of the respective vice-president if a director reports directly to the vice president of the employees concerned, or exceptionally their deputy.

(4) The line manager is responsible for:

(a) submitting a shift-work schedule at least one month in advance to all employees concerned. This schedule must indicate the start and end times of the shifts and the names of the employees concerned and must describe the activities to be performed during the shift work.
(b) outlining the roles and responsibilities during shift work in a document which must be accessible to all employees taking part in the shift work activities.
(c) taking into consideration any leave plans and the mode of working [remote/on-site] of the employees concerned and deciding on them prior to the establishment of the shift-work schedule, or during shift work activities should this occur.
(d) communicating any changes to the shift work schedule to all employees taking part in the shift work without delay.
(e) The responsibilities of the line manager as stipulated in Part I Overtime, paragraph (10) (c), (d), (e) and (f) apply to shift work as well.

(5) Employees working part-time in accordance with the provisions of Article 56 and Circular No. 34 of the ServRegs, as well as employees on any type of absence or leave or on reduced working time for medical reasons following an opinion by the medical practitioner chosen by the President of the Office may not be asked to participate in shifts outside their normal working hours.

III. On-call duty (Article 58a)

(1) Pursuant to Article 58a ServRegs, an employee required in the interests of the service to be available outside normal working hours for work when called upon is entitled to a flat-rate allowance. The performance of an employees' on-call duties requires availability in accordance with the requirements provided for in Part V Responsibilities of employees, paragraph 2. If, due to exceptional circumstances, on-call employees cannot be reached when called during their planned on-call hours or they are not in a

condition to perform their duties when called, they lose the right to compensation for the period referred to in this Part III under paragraph (7)(a).

(2) Having employees on-call is a means of dealing with incidents that may interrupt the proper functioning of the Office.

(3) The requirement to place employees on call must be assessed in advance following a risk report by the line manager which must be approved by the Principal Director or by the respective Vice-President in case a Director directly reports to the Vice-President of the employees concerned.

(4) Requests for on-call duty will be communicated to the employees concerned in writing by the line manager subject to prior agreement of the principal director or of the respective vice-president if a director reports directly to the vice-president of the employees concerned, or exceptionally their deputy, who should assess and decide on the need for employees to be placed on call.

(5) Once an employee has been called in, the provisions for overtime in Article 57 ServRegs replace the on-call provisions of Article 58a ServRegs from the moment when the employee is called in, until such time as the action for which the employee was called in has finished. In the case of employees in grades G6 and below any travel time must be compensated as overtime. Employees in grade G7 and above have no right to compensation for overtime, but they may accrue flexi hours for the travel and working time instead. Any flexi hours thus accrued in excess of the maximum amounts set out in Article 5(2) of the Guidelines on arrangements for working hours must be compensated as time off in agreement with the line manager.

(6) Employees on any type of absence or leave or on reduced working time for medical reasons following an opinion by the medical practitioner chosen by the President of the Office may not be requested to be on call.

(7) The line manager is responsible for:

(a) issuing on-call requests in advance (preferably one month in advance) to all employees concerned. Requests will include details such as start and end times, the mode of working [remote/on-site] as well as the reasons why the on-call request has been made.

(b) setting out the responsibilities and describing possible actions during on-call work in a document which must be accessible to all employees who are in an on-call situation.

(c) ensuring that employees on call can be reached at a distance. In particular, ensuring that employees on call must be available at a distance that will enable them to travel to their place of employment within two hours from the time of notification if on-site presence is required. In such cases, remote work from a greater distance is incompatible with the proper performance of an employees' on-call duties and may not be authorised by the line manager. If the duties can be performed remotely, on call employees must be operational within 20 minutes from

the time of notification.

(d) assessing, approving and submitting to the relevant HR departments any claim for travel expenses incurred when an employee is called in. Any travel expenses will be compensated in accordance with Circular No. 319, Rule 4(4).

(e) calling in employees who are required for duty. In cases of direct urgency when there is no time to obtain prior approval, an immediate colleague or other service may take the initiative to call an employee who is on-call. All calls must be recorded and confirmed by the line manager without delay.

(f) providing a justification for calls together with a description of the activities performed.

(g) keeping for audit purposes a record of incidents in which employees had to be called in.

(h) The responsibilities of the line manager as stipulated in Part I Overtime, paragraph (10) (c), (d), (e) and (f) apply to on-call duty as well.

IV. Line manager deputising arrangements

By way of exception, line managers may appoint a deputy to replace them during periods of absence, in order to guarantee the proper processing of the responsibilities described above. They must provide the relevant HR departments with the names of these deputies.

V. Responsibilities of employees

(1) In accordance with Article 55(1) of the ServRegs, employees must be at the disposal of the Office at all times.

(2) With a view to the provisions of the ServRegs, Articles 57, 58, 58a and Circular No. 38, employees asked to work overtime, shift work or on-call hours must be in a condition to comply with the requirements of the service and the provisions of these guidelines. In particular, employees on call must be available at a distance that will enable them to travel to their place of employment within two hours from the time of notification if on-site presence is required. In such cases, remote work from a greater distance is incompatible with the proper performance of an employees' on-call duties and may not be authorised by the line manager. If the duties can be performed remotely, on-call employees must be operational within 20 minutes from the time of notification.

(3) Employees must register any working hours performed under these guidelines on a daily basis via MyFIPS and inform their line manager without delay of any difference over the hours requested in advance by the line manager.

(4) To ensure that the relevant HR departments can process them in good time, monthly claims for compensation should be submitted within two weeks following the end of the calendar month in which overtime, shift work or on-call duty has been performed.

VI. Other

(1) Exceptionally, and in accordance with Article 55(1) ServRegs employees may be required to cancel or interrupt their annual leave or registered absence in accordance with Article 6(4) of the Guidelines on arrangements for working hours if their expertise is indispensible.

(2) Any overtime, shift work or on-call duty to be performed by a line manager or deputy is subject to prior instruction and approval by their superior.

(3) Overtime, shift and on-call hours cannot be applied simultaneously.

VII. Entry into force

(1) This circular will enter into force on 16 October 2023. It replaces the former Circular No. 339 in force until 15 October 2023.

Circular No. 346
(1st July 2013)

Submission of documents with regard to the payments laid down in Articles 67, 80, 81 and 85 of the Service Regulations

In principle, a payment order shall be accompanied by the original voucher, in accordance with Article 50(1) of the Financial Regulations.

However, as a further step towards increasing efficiency of administrative procedures as per the HR Roadmap, it has been decided as follows:

Article 1

For the payments laid down in Articles 67, 80, 81 and 85 of the Service Regulations, staff must attach to their electronic claims scanned evidence of their entitlement to the requested allowance. The submission of original documents is not mandatory.

Article 2

The Office shall conduct random checks of original documents. For this purpose, staff shall keep the originals of all submitted scanned documents, especially those that cannot be obtained anew (e.g. rent contracts, contracts with schools and childcare facilities, invoices etc.), throughout the period they serve as the basis of a (recurring) payment and then for 4 years after the last payment.

The Office reserves the right to perform any additional checks on the eligibility to these payments that are deemed necessary.

Article 3

In case staff fails to provide original documents upon request from the administration, the Office, without prejudice to any other steps under the Service Regulations, may recover any paid sums as undue pursuant to Article 88 of the Service Regulations.

Article 4

The present Circular shall enter into force on 1 July 2013 and shall be subject to regular review.

Željko Topić
Vice-President DG 4

Circular No. 356
(2 April 2014, 1 July 2017, 1 January 2019, 1 January 2020, 1 January 2023)

Resources and facilities to be granted to the Staff Committee

Part I
Introduction

Part I
Introduction

The Staff Committee is a body established in Articles 33 to 37 ServRegs, with Article 34(2) ServRegs specifically providing that the duties undertaken by Staff Committee members and their nominees shall be deemed to be part of their normal service. Such staff should be allowed to carry out their duties under the Service Regulations efficiently and effectively.

To this end Staff Committee members should be exempted from carrying out their official duties for all or part of their working time. Furthermore, staff members who are nominated by the Staff Committee to bodies pursuant to Article 36(2)(a) ServRegs shall be entitled to make time deductions. Additional resources shall also be granted to the Staff Committee to enable it to exercise its functions fully.

At the same time, it is necessary to have regard to the needs of the service and to ensure the continued and smooth performance of the Office's core tasks. In accordance with Article 34(3) ServRegs, this Circular sets out the resources and facilities which shall be granted to the Staff Committee. It also sets out how such resources may be used by the Staff Committee, in order to ensure a balance is achieved between the needs of the Staff Committee on the one hand and the interests of the service on the other.

Part II
General Provisions

Article 1
Definitions

For the purposes of this Circular, the following definitions shall apply:

(1) A "member" or "Staff Committee member" is any employee elected as a member (whether full or alternate) of the Staff Committee pursuant to Article 35 ServRegs.

(2) A "fully exempted member" is a member who has been exempted 100% from his official duties in accordance with Article 4(1).

(3) A "partially exempted member" is a member who has been exempted up to 75% or up to 50% from his official duties in accordance with Article 4(2) or 4(3) respectively.

(4) A "nominee" or "Staff Committee nominee" is any employee other than a member who is nominated by the Staff Committee to a body pursuant to Article 36(2)(a) ServRegs.

(5) "Staff representative" is a collective term referring to both members and nominees.

Part III
Human Resources

Article 2
Composition of the Staff Committee

(1) The Central Staff Committee and each Local Staff Committees respectively elect a chairman from among their members. The chairmen of the Central and Local Staff Committees shall inform the President in writing of the composition of their committee, stating in particular which members hold the positions of chairman, deputy chairman and secretary. This notification shall be made within five working days of the composition being established at a constituting meeting. Any changes to the composition shall be notified to the President within the same timeframe.

(2) The chairmen, deputy chairmen and secretaries of the Central and Local Staff Committees shall hold such position for the entire duration of their term of office according to Article 35(7) ServRegs. They may only be replaced in the event that they cease to be members of the Staff Committee.

(3) The chairmen of the Central and Local Staff Committees shall provide the President with a copy of their Rules of Procedure, if any, within five working days of adoption or amendment.

(4) Performing their duties as chairman, deputy chairman, secretary, full or alternate members of the Central and Local Staff Committees shall in no way be prejudicial to the person concerned.

Article 3
Replacement of Staff Committee members

(1) A full member of the Central Staff Committee whose service terminates for one of the reasons set out in Article 50 ServRegs or who resigns from his office shall be replaced for the remaining term of his office by the first available alternate who obtained most votes in the last election of the Central Staff Committee.

(2) An alternate member of the Central Staff Committee whose service terminates for one of the reasons set out in Article 50 ServRegs or who resigns from his office shall be replaced for the remaining term of his office by the

first non-elected candidate who obtained most votes in the last election of the Central Staff Committee.

(3) A member of a Local Staff Committee whose service terminates for one of the reasons set out in Article 50 ServRegs or who resigns from his office shall be replaced for the remaining term of his office by the first non-elected candidate who obtained most votes in the last election of that Local Staff Committee.

Article 4
Exemptions for Staff Committee members

(1) The chairman of the Central Staff Committee shall be exempted up to 100% from his official duties. This time exemption shall be used only for staff representative activities.

(2) Full members of the Central Staff Committee and Chairmen of the Local Staff Committees shall be exempted up to 75% from their official duties (reduced pro rata for staff working part-time). This time exemption shall be used only for staff representative activities.

(3) All other Staff Committee members shall be exempted up to 50% from their official duties (reduced pro rata for staff working part-time). This time exemption shall be used only for staff representative activities.

(4) Partially exempted members shall manage their working time efficiently to ensure a balance is maintained at all times between their staff representative activities on the one hand and their official duties on the other. In case of any absence from the Office (for example due to sickness or leave), such members shall ensure that their remaining working time is proportionately distributed between these two roles.

Article 5
Redistribution of time exemptions amongst Staff Committee members

Provided that an individual limit of 75% time exemption for each partially exempted Staff Committee member is maintained, the time exemption corresponding to a vacant post amongst the member of his committee may be redistributed upon proposal of the chairman of the Staff Committee concerned in the following cases:

(a) In case an alternate member of the Central Staff Committee's service terminates for one of the reasons set out in Article 50 ServRegs or he resigns from his office, and there is no available non-elected candidate to replace him as per Article 3 of this Circular.

(b) In case a member of a Local Staff Committee's service terminates for one of the reasons set out in Article 50 ServRegs or he resigns from his office, and there is no available non-elected candidate to replace him as per Article 3 of this Circular.

Article 6
Career of fully and partially exempted staff

(1) No staff reports shall be issued for staff representative activities. The fact of performing staff representative activities shall be neither prejudicial nor beneficial to the person concerned.

(2) For rewarding purposes, a fully exempted member shall be deemed to have been subject to an average career progression during such periods. For partially exempted members, in the absence of the allocation of a reward based on a managerial decision, a compensation scheme is applied pro rata temporis only to the up to 75% or to the up to 50% staff representative activities respectively.

(3) At the end of his term of office, the Staff Committee member concerned shall at once be reinstated in his post where possible. If this has been filled, the Staff Committee member concerned shall be reinstated in the first post corresponding to his grade which falls vacant or is created provided that he satisfies the requirements for that post.

(4) A Staff Committee member and a Staff Committee nominee appointed in accordance with Article 36(2)(a) ServRegs to the Appeals Committee cannot be considered as professionally incompetent in the meaning of Article 52 ServRegs, and thus cannot be subject to a procedure of professional incompetence as set out in Article 52 ServRegs, for the official duties he performed during his term of office and the year following the end of that term of office.

Article 7
Time deductions for Staff Committee nominees

Staff Committee nominees appointed in accordance with Article 36(2)(a) ServRegs shall be entitled to deduct reasonable time incurred for their duties as follows:

(a) For each disciplinary procedure or procedure before the Joint Committee on Articles 52 and 53 in which a nominee participates, up to three working days subject to the approval of the Chairman of the relevant Committee;

(b) For each selection procedure in which a nominee participates, up to two working days subject to the approval of the Chairman of the relevant Selection Board;

Additional time deductions may be granted in response to a reasoned written request (supported by the appropriate Chairman) to the Principal Director People.

(c) For each internal appeal procedure in which a Staff Committee nominee appointed in accordance with Article 36(2)(a) ServRegs to the Appeals Committee is involved, up to two working days per opinion issued;

In exceptional cases, additional time deductions may be granted by the Presiding Member of the Chamber, or by the Chair of the Enlarged Chamber in response to a reasoned written request. Except in internal appeal procedures treated by the Enlarged Chamber, such additional time deductions are limited to up to two additional working days.

Article 8
Time recording for staff representative activities

(1) All Staff Committee members and nominees (including the fully exempted member), shall record their time spent on staff representative activities using the electronic tool provided by the Office in accordance with the workflows established for that purpose.

(2) Partially exempted members and nominees shall inform their line managers in advance of any absence due to staff representative activities.

(3) The Chairmen of the Central and Local Staff Committees shall be sent a quarterly report of the time recorded.

Part IV
Other Resources

Article 9
Premises

The Office shall provide sufficient working space for the Staff Committee. Such premises shall not be used for trade union activities.

Article 10
Equipment

(1) The Office shall provide the relevant departments with a complete list of the office, computer and mobile communication equipment to be issued to the Staff Committee and its members.

(2) Staff Committee members shall return all such equipment issued to them personally at the end of their term of office.

Article 11
Duty travel

(1) The Office shall set an annual budget to cover the cost of all duty travel required for the performance of staff representative activities.

(2) The Chairman of the Central Staff Committee shall be responsible for ensuring that the budget under paragraph 1 is not exceeded. To this end he shall receive a monthly report of the costs incurred.

(3) Duty travel shall be organised and reimbursements made in accordance with the provisions of Articles 77 to 79 ServRegs and Circular No. 319 while taking due account of the budget.

Article 12
Training

(1) The Office shall allocate the Staff Committee an annual budget for training purposes.

(2) Each Staff Committee member shall be granted up to five days for training per year. In the case of partially exempted members, these five days, if used, shall be deducted from the partial time exemption granted under Article 4(2) or 4(3) respectively.

Article 13
Communication

(1) The Office shall make available to the Staff Committee dedicated intranet sites and noticeboards in communal spaces. The Staff Committee may also request the Office to print and distribute reasonable amounts of documents to facilitate the exercise of its duties.

(2) The Staff Committee shall observe all rules in force with regard to communication, including those governing the use of mail, telecommunications and electronic communications.

(3) The Staff Committee shall ensure that all of its communications are professional and respectful and meet the standards expected of the international civil service.

(4) Further provisions regulating the use of the means of communication (e.g. use of the central intranet webpage, use of the information screens, etc.) shall be specified in a separate agreement between the Office and the Central Staff Committee.

Article 14
Use of Office premises

(1) If the Staff Committee wishes to use Office premises (other than those covered by Article 9) for the exercise of its functions, it shall obtain the prior written approval of the Vice-President Corporate Services.

(2) Whenever meetings are held for the purpose of informing staff at large or holding a general assembly, the Staff Committee shall ensure that they take place outside the Office's core hours.

Part V
Final Provisions

Article 15
Delegation

The President may delegate his powers under this Circular.

Article 16
Entry into force and transitional provisions

(1) This Circular shall enter into force on 1 January 2023. It replaces the former Circular No. 356 in force until 31 December 2022.

(2) The President may take any further measures necessary to ensure a smooth transition to the new system.

Munich, 22.12.2022.

The President of the European Patent Office
António Campinos

Circular No. 364
(19 December 2014, 1 April 2017, 1 June 2018,17 April 2019,
1 January 2021, 15. July 2022, 3 March 2023, 10 May 2023,
15 December 2023)

Implementation of the New Career System - Minimum qualifications for recruitment, grading on recruitment, promotion & other rewards

Guidelines for applying Articles 11, 12(2), 48, 48a and 49 of the Service Regulations for permanent and other employees of the European Patent Office (ServRegs)

Part I
Minimum qualifications for external recruitment

A. Minimum qualifications for job groups 1 to 4

(1) Diploma of completed university studies at master's level or – in exceptional cases – equivalent professional experience.

(2) Excellent knowledge of one official language and ability to understand the other two.

(3) Alternatively, where justified in the interests of the service, excellent knowledge of one official language. In such cases, the employee recruited will demonstrate achievement of the required level in the second and third languages under the conditions laid down in Circular No. 405.

B. Minimum qualifications for job group 5

(1) Diploma of completed studies at bachelor's level or equivalent or – in exceptional cases – equivalent professional experience.

(2) Working knowledge of two official languages.

(3) Alternatively, where justified in the interests of the service, working knowledge of one official language. In such cases, the employee recruited will demonstrate achievement of the required level in the second language under the conditions laid down in Circular No. 405.

C. Minimum qualifications for job group 6

(1) Completed secondary education or – in exceptional cases – equivalent professional experience.

(2) Working knowledge of two official languages.

3) Alternatively, where justified by the interests of the service, working knowledge of one official language. In such cases, the employee recruited will demonstrate achievement of the required level in the second language under the conditions laid down in Circular No. 405.

Part II
Grade and step on recruitment (Article 11 ServRegs)

(1) On recruitment an employee shall be assigned the grade corresponding to the specific post to which they have been appointed, having regard to the vacancy notice.

(2) Assignment shall be to:

(a) the lowest grade in each job group, except where the need to fill a vacant post within a higher grade so requires according to the vacancy notice;
(b) the lowest step within the assigned grade.

(3) Where the vacancy notice expressly provides for the possibility of recruitment in a grade higher than the lowest in the job group, the grading on recruitment shall be assigned depending on previous professional experience as described below.

(a) Posts in job group 4 (administrator/examiner, etc.)

Grade on recruitment is determined by previous professional experience, in accordance with the table below:

Grade	Minimum previous professional experience
G7	None
G8	6 years
G9	12 years
G10	18 years

(b) Posts in job group 5 (head of section/expert)

Grade	Minimum previous professional experience
G7	None
G8	6 years
G9	11 years

(c) Posts in job group 6 (administrative employee)

Grade	Minimum previous professional experience
G2	None
G3	6 years
G4	11 years
G5	16 years

(4) Professional experience prior to recruitment to an EPO post is considered for grade assignment and career development purposes, subject to the conditions below:

(a) It must correspond to that of an employee holding an EPO post in the same job group as regards the type of work and level of responsibility.
(b) It must occur after acquisition of the level of education required under the minimum qualifications for the post in question.
(c) It must be the result of a formal working relationship documented through a contract of employment or salary payslips or any other document from the list set out by the recruitment department. Freelance activities must be documented through tax declarations.
(d) Part-time work will be considered pro rata. In the absence of a documented part-time percentage, the professional experience will be calculated against a 40-hour working week.
(e) The total professional experience considered may not exceed 100% for a given period.

(5) If a doctoral degree (PhD) was earned within the framework of or concurrently with a formal working relationship, then the period of time leading to that degree is considered for grade assignment and career development purposes for any part of that period in which the requirements of paragraph 4 are met. In any event, the period recognised will not be less than three years.

(6) If a doctoral degree was earned outside and not concurrently with a formal working relationship, only a flat rate of three years' professional experience is considered for grade assignment and career development purposes for the period of time leading to that degree.

(7) The President may, in exceptional cases, decide that a candidate's qualifications justify a higher grading or step. The decision must be duly substantiated. Such exceptions may be justified in cases in which a candidate's qualifications are considered particularly relevant and useful to the Office.

Part III
Functional allowance (Article 12(2) ServRegs)

A. Definitions and conditions

(1) An employee requested to perform duties in their grade inter alia involving specific constraints or demands or additional tasks and responsibilities may be awarded a functional allowance.

(2) The functional allowance is linked to the nature of the duties, be they of a permanent or temporary nature. Employees carrying out duties as listed in Annex I may be eligible for a functional allowance.

(3) A functional allowance may be awarded to an employee inter alia under the following conditions:

(a) when, in addition to their usual duties, an employee performs other duties corresponding to their grade, such as those listed in Annex I.
(b) these additional duties are not otherwise rewarded.
(c) the funds are available in the corresponding budget.

(4) The functional allowance may be granted when the additional duties or constraints commence and continue to be paid while the extra duties are required.

(5) An employee may be awarded only one functional allowance.

(6) The maximum amount of the functional allowance is defined in Article 12(2) ServRegs. The exact amount of the functional allowance awarded to an employee is defined by the President, considering inter alia the nature of the tasks, their complexity and strategic priorities.

B. Procedure

(1) The line manager of an employee discharging duties included in Annex I justifying the award of a functional allowance may request such an award from their superior(s) in advance or at the latest as soon as the duties commence.

(2) The request for continuation of the functional allowance must be renewed yearly. Deadlines for renewal of such requests will be set, in order to be considered for the budget cycle of the subsequent year.

(3) A harmonised approach across the Office to the award of this allowance will be ensured, with regard to the:

(a) fulfilment of the minimum eligibility criteria; and
(b) budgetary envelope availability in the DG.

(4) Each year (N), following a decision on the funds available for this element for the next year (N+1), a list of employees eligible for the functional allowance shall be submitted in the prescribed form to the President.

(5) New requests for functional allowances that could not have been planned in the previous year or that arise out of urgency or unforeseen needs may

exceptionally be filed during the budget year within the budgetary limits. They must be submitted in the prescribed form for approval to Human Resources, which will ensure harmonised application across the Office and will report regularly to the President on the use of the functional allowance in the different DGs.

(6) The decision to award a functional allowance rests with the President.

Part IV
Decisions on step advancement, bonuses and promotions (rewards)

A. General

(1) Depending on budgetary availability Office-wide, a budgetary envelope shall be awarded each year to all DGs to be distributed as applicable in the rewards allocation rounds for:

(a) step advancements (Article 48 ServRegs)
(b) bonuses (Article 48a ServRegs)
(c) promotions (Article 49(2) ServRegs).

(2) It is the responsibility of the managers at each level to assess and propose the award of the elements mentioned in paragraph 1(a)-(c) above, and to ensure a harmonised approach, taking into consideration:

(a) performance as explained below;
(b) budgetary envelope availability in the DG;
(c) equal opportunities among all categories of staff (such as but not limited to gender, job group, type of appointment, etc.);
(d) that periods of maternity and adoption leave are neutralised by considering that performance prior to and after the leave is continuous;
(e) that attention is paid to employees who have not received any step advancement or promotion in several successive reward exercises.

(3) There is no automatic link between appraisal reports and the reward exercise. While performance is a precondition for the award of the elements mentioned in paragraph 1(a)-(c) above, it may not be sufficient to warrant a reward in view of:

(a) the setting by the President of the maximum proportion of employees to be rewarded in a specific reward exercise;
(b) the comparative nature of the reward exercise; and
(c) Office priorities in the allocation of budget envelopes.

(4) Decisions regarding the award of the elements mentioned in paragraph 1(a)-(c) above shall be taken by the President, having regard to:

(a) the proposals of the managers at each level;
(b) performance as explained below; and
(c) budgetary envelope availability in the DG.

B. Step advancement (Article 48 ServRegs)

(1) Depending on budget availability in the DG, an advancement of one or two steps in grade is used to reward performance resulting in a sustained contribution towards the Office priorities and achievements.

Demonstration of such contribution may be for instance:

(a) achievement of the expected goals corresponding to grade, seniority and job profile;
(b) steady progress towards mastery of the job, including, for example, increased scope or complexity of tasks;
(c) strength in the competencies critical for the employee's role;
(d) continuous engagement on the priorities of the Office;
(e) being a role model within and outside the employee's team.

(2) Allocation of step may occur only within the same grade. When the employee has reached the highest step in their grade, career progression may occur only through promotion.

C. Bonuses (Article 48a ServRegs)

(1) Depending on budget availability in the DG, a bonus in the form of a lump-sum payment is used to reward high performance and/or additional duties not otherwise rewarded, provided that these result in consistent achievement over the performance year, such as:

(a) contribution to strategic projects or well-defined work packages with a clear budgetary scope and timeline defined in advance;
(b) collaborative achievements;
(c) extraordinary workload due to specific organisational circumstances;
(d) efforts towards a specific development critical to the employee's role;
(e) meeting stretched goals;
(f) providing significant business contributions which go beyond achievement of the individual goals.

On the basis of the above criteria, bonuses continue to reward high performance, also after reaching the end of the grade or the job group.

(2) Bonuses may be individual in nature or have a collective character.

(3) The amount of the bonus shall be defined within the limits of the budgetary envelope. It shall be granted within the budgetary year in one or more payments. Applicable amounts, including ceilings for the maximum amount that may be received per individual employee, are defined in the President's general guidelines on rewards.

D. Promotions (Article 49(2) ServRegs)

a. Definitions and scope

These Guidelines concern normal promotion procedures within the meaning of Article 49(2) ServRegs: access to the next immediate higher grade within the same post not taking place following a selection procedure or reclassification.

b. Eligibility criteria for promotion

(1) The eligibility of an employee for promotion shall be assessed over time, taking into account inter alia the following conditions:

(a) the employee has reached the last step in their grade in the calendar year prior to the promotion exercise;
(b) proven performance and expected goals corresponding to the grade continuously achieved over several years;
(c) demonstrated competencies and abilities to perform at a higher grade;
(d) broadening or deepening of the employee's tasks, experience and responsibilities;
(e) continuous growth in role, along with an evolution in scope and complexity of the tasks performed.

(2) The eligibility criteria shall have been met by 31 December of the calendar year (N-1) prior to the year of the decision for promotion (N).

E. Process

The President shall take appropriate measures to ensure a smooth reward process and may specify the timeline, priorities and other reward modalities in general guidelines on rewards.

The procedure and responsibilities are described inter alia in Part IV.A above. The process may involve different rounds per year for pensionable rewards and for bonuses. More specifically:

(1) Subject to the budgetary limits and eligibility criteria, managers at each level shall propose the distribution in each reward round of rewards for those employees under their managerial responsibility.

(2) Each DG, taking into account the budgetary envelope allocated to it and the proposals of the managers at each level, shall submit to the President a list of employees proposed for rewards, as the result of a calibration exercise at different managerial levels including the VPs and the President.

(3) A Harmonisation Committee shall assist the President before conclusion of each round of allocation of individual rewards by assessing and monitoring trends to ensure a balanced distribution among all categories of staff (such as but not limited to gender, job group, etc.). The Harmonisation Committee shall be responsible for ensuring a consistent approach across all DGs and observance of the applicable criteria Office-wide.

(4) The Harmonisation Committee shall be chaired by the President and composed of members of each DG appointed by the President. The President may invite observers, who do not have an active role in the Committee but can follow the Committee's discussions. The information and documents provided as confidential must be treated as such by the members and observers of the Harmonisation Committee.

(5) The President decides in accordance with this circular on the final list of employees to be rewarded, including, in particular, proposals for promotion.

(6) Pensionable rewards (step advancements and promotions) will take effect on 1 April of the calendar year in which the decision is taken, provided that the conditions continue to be met on the date of the decision.

(7) Non-pensionable rewards (bonuses) will be paid on the dates set out in the annual guidelines for rewards.

(8) The list of promoted employees shall be published.

(9) Upon approval of the President, a report will be published after closure of the reward exercise to provide general information about trends and global statistics.

Part V
Entry into force

This circular shall enter into force on 1 January 2024. It replaces the former Circular No. 364 in force until 31 December 2023.

Munich, 15.12.2023.

The President of the European Patent Office
António Campinos

ANNEX I

Non-exhaustive list of duties involving specific constraints or demands or tasks and responsibilities that may justify the award of a functional allowance:

1. Advisers to areas of high responsibility (e.g. President, vice-presidents).
2. Management assistants to areas of high responsibility (e.g. President, vice-presidents, principal directors).
3. Management duties that are not reflected in the new grading system and that involve reporting responsibilities.
4. Others: additional tasks or duties such as functions with very high responsibility (inter alia political contacts with external stakeholders such as NPOs), risk management in the RFPSS, etc..

Circular No. 365
(19 December 2014, 12 December 2024)

Talent management framework

1. Scope

This circular establishes the EPO talent management framework that supports the classification and reclassification of posts, talent acquisition and planning, in addition to onboarding and job mobility. In particular, the framework defines the job architecture that organises posts and the skills framework that supports talent management.

The concept of competencies is implemented by reference to a skills framework that identifies the practical abilities (the "skills") required to perform effectively in the job assigned. Skills serve as a tool for tracking staff development, performance development and rewards by clarifying what is needed and expected in the performance of a given job.

2. The EPO job architecture

The EPO job architecture is built around:

- types of jobs and job groups with a corresponding range of grades (Annex I to the Service Regulations)
- job profiles describing tasks and requirements for types of jobs in each functional area and providing a basis for classifying posts in the job groups.

Job profiles include:

- job title specifying the type of job described in Annex I
- the functional area (where applicable)
- the nature of the duties and level of responsibilities
- the level of educational qualifications needed as described in Circular No. 364
- skills and the level of proficiency expected.

Some job profiles are designed as temporary support for specific tasks and operate outside a specific functional area or job group (e.g. partial assignments outside the employee's main job profile that determines their job group).

Employees are informed of their job profile, including the relevant skills and expected proficiency levels.

3. The EPO skills framework

3.1 Skills categories

The EPO skills framework maps out four major groups of skills:

- **general skills**: personal traits, general abilities and observable behaviours that all employees, across all jobs and grades, are expected to demonstrate and that are essential to effectively perform the tasks of any job profile.
- **people-management skills**: know-how required for profiles with people-management responsibilities.
- **functional skills**: the specific or technical know-how needed for duties to be performed in each functional area.
- **cross-functional skills**: know-how that is common and transferable across more than one functional area, constituting an important instrument for job mobility in the organisation.

On average, seven relevant skills are identified for each group of skills. Skills are defined in the job profiles.

3.2 Skills Proficiency levels

Skills are measured by reference to levels of proficiency.

- **Level 1 – Developing knowledge**: limited knowledge of a skill, requiring further development to perform tasks without assistance or frequent supervision.
- **Level 2 – Knowledgeable of subject**: working or functional proficiency level enabling the skill to be applied **effectively**.
- **Level 3 – Profound knowledge**: in-depth proficiency level; employee can assist, consult or lead others in the application of the skill.
- **Level 4 – Expert knowledge**: broad, in-depth proficiency; employee is recognised as an authority or master performer in applying the skill.

Skills are developed through continuous training and experience.

3.3 Assessment

Skills assessment and proficiency levels implement the concept of competencies and serve talent management purposes as described in section 4 of this circular.

Employees are invited to regularly self-assess their general, functional, cross-functional and, as applicable, people-management skills in close dialogue with and with guidance from their line manager. The skills self-assessment is a preparatory step in the regular individual development planning process set out in Circular No. 366 to help employees develop skills relevant for their current post or to prepare for future ones.

When evaluating performance and making rewards proposals, the line manager is responsible for assessing progress and demonstration of skills

by taking account not only of skill level and development but also of skill application through performance.

4. Use of the skills framework for talent management purposes

Skills support talent management processes such as:

- talent acquisition, onboarding and job mobility: the skills associated with an individual job profile are considered when drafting vacancy notices, support onboarding processes and facilitate talent planning and mobility.
- talent development: following a skills self-assessment, an employee's strengths and development areas are identified and taken into account for the creation and annual review of their individual development plan (IDP) jointly with their line manager (Circular No. 366).
- performance and appraisal: the skills framework clarifies performance and competency expectations by defining optimal skill levels for the current job profile. It assists line managers in determining operational and development goals for individual employees within the performance cycle and in providing motivation to achieve them.
- rewarding: successful application and development of relevant skills and competencies as part of an employee's overall performance will be taken into account for the purpose of rewards, as set out in Part IV of Circular No. 364.
- talent planning: by identifying skill gaps and strengths early, the skills framework supports timely succession planning and helps optimise capacity planning.

5. Maintenance of the skills framework

The skills framework, as implemented in job profiles, is dynamic and subject to regular, harmonised review in line with the strategic and operational needs of the EPO.

6. Entry into force and application

This circular will enter into force on 1 January 2025 and apply as of the 2025 performance cycle. Managers should ensure that the goals set for the 2025 performance cycle are aligned with the job profiles applicable to their reportees.

All decisions related to the 2024 performance cycle will be governed by Circular No. 365, in the version in force on 31 December 2024.

Circular No. 366
(1 January 2020, 15 December 2023)

Guidelines on performance development

Guidelines for applying Article 47a of the Service Regulations for permanent and other employees of the European Patent Office

I. SCOPE

Within the framework of Article 47a of the Service Regulations for permanent and other employees of the EPO (ServRegs), these guidelines set out further conditions with regard to performance development.

These guidelines apply to all employees under Article 1 ServRegs, with the exception of those under its paragraphs 4 and 5.

II. AIM

The EPO is committed to promoting a culture of merit, based on continuous learning and professional development, which serves both business needs and employee aspirations. Performance development is the process by which line managers and employees discuss the contribution to be made by individual employees to enable the EPO to fulfil its mission and where continuous feedback is given to support the employee in developing in their current role or in view of future aspirations.

III. PROCESS

Performance development is a continuous cycle built on collaborative discussions between employee and line manager and is managed holistically in line with the EPO's goal framework. Each step of the performance development cycle (for details see point VII, "Overview of performance development cycle") should be completed within the time frame indicated.

An appraisal report is generally drawn up for the period from 1 January until 31 December of a given year. Each employee will have one report per year that will cover their performance over the whole year, even in the event of a change of tasks or a change of line manager in the course of the year.

The report will contain comments relating to the employee's ability, contribution and effectiveness, as well as their attitude to work and dealings with others. These aspects are looked at in relation to the level expected in view of the employee's job profile, grade and seniority.

Periods of less than four months (e.g. phases between a probation report and the preceding or following normal report) do not need to be covered in a separate report.

The performance development process is supported by an online tool which covers all the steps in the cycle.

IV. ROLES AND RESPONSIBILITIES

The key relationship in the performance development process is that between the employee and their reporting officer, and is based on continuous feedback and dialogue.

The roles and responsibilities are as follows.

1. Employees

Employees are responsible for meeting the expectations discussed with their line manager and set as final for the year as well as for actively driving their individual development.

They are expected to contribute proactively to the goal setting, to review their progress regularly and to actively report to their manager on their progress as well as on potential difficulties.

In order to report on their contribution, employees are asked to carry out a self-assessment at the end of the reporting period, which then forms part of the review meeting with the reporting officer.

2. Reporting officers

Unless otherwise indicated, the reporting officer is the line manager of the employee.

Reporting officers are responsible for developing and motivating their reportees to achieve their operational and developmental goals. They are the owners of the performance development process and are responsible for the timely completion of the cycle for each of their reportees.

This includes setting goals as well as maintaining a continuous dialogue with their reportees. Reporting officers are invited to have quarterly exchanges with their reportees for feedback on the status of and progress on performance. However, it is mandatory for them to record at least three reviews per year (including the final review) and to draft the appraisal reports.

In general, the reporting officer in place at the time when the report is due is in charge of drafting the appraisal report. This applies too in cases where the reporting officer has changed in the course of the appraisal period.

If the employee's reporting officer changes during the appraisal period (e.g. due to a job change or reorganisation), the new reporting officer must seek input from the former reporting officer and make sure that it is reflected in the report. The reporting officer may also consult any other person (e.g. project manager) under whose supervision the employee has worked for at least part of the reporting period and who is therefore able to provide a relevant contribution relating to the performance of the employee during the performance development cycle.

Reporting officers are, together with the employees, also responsible for establishing development plans with their reportees.

The reporting function is a core managerial responsibility and may not therefore be delegated on the line manager's own initiative.

3. Countersigning officers

Unless otherwise indicated, the countersigning officer is the line manager of the reporting officer.

In addition to their own reporting officer role, countersigning officers are responsible, on the basis of the EPO goal framework, for defining the goals supporting the delivery of the EPO's strategy and enabling them to be cascaded down through the units.

They are responsible for ensuring the fairness and consistency of reports, the harmonised application of the performance development guidelines in their business area and the provision of necessary support in cases of performance issues that are escalated to them.

Countersigning officers also act as arbitrators who will seek to identify a reasonable way forward in cases where there is a difference in views between the employee and the reporting officer.

V. INDIVIDUAL DEVELOPMENT PLAN (IDP)

Individual development is an integral part of the EPO performance development system.

The individual development plan (IDP) is a systematic process that supports the personal and professional growth of employees as well as the general

development of the organisation at all levels. It also serves to ensure the implementation and follow-up of related activities in line with individual and business needs and career aspirations.

Each employee should have an IDP and progress should be reviewed at regular intervals. It is drawn up jointly by the line manager and the employee in a dedicated template.

VI. ENTRY INTO FORCE

This circular will enter into force on 1 January 2024. It will supersede any earlier circulars, instructions or guidelines relating to performance management.

Munich, 15.12.2023.

The President of the European Patent Office
António Campinos

VII. OVERVIEW OF PERFORMANCE DEVELOPMENT CYCLE		
Step	**Description**	**Timeline**
Goal setting	- The EPO's strategic goals are cascaded down through the different hierarchical levels of the Office to individual employee level. - The translation of business area goals into individual goals is discussed by the reporting officer and the employee. - Goals are defined in line with the job profile, grade and seniority of the employee and on the basis of the statutory working hours. Deviations from the statutory working hours such as due to part-time work, maternity or adoption leave or working hours spent in other statutory functions (e.g. as a confidential counsellor or in staff representation activities) will be taken into account for the goal setting. - Such goals should also include development measures and take into account tasks outside the normal scope of the employee's duties (e.g. other activities in the interests of the Office, as agreed by management). - The goals are set by the manager following a collaborative discussion with the employee and are recorded in the performance development tool. - As of 31 December, the goal-setting step is considered closed and the goals recorded in the tool are deemed final. They may, however, be amended in line with business needs in the course of the year and after informing the employee accordingly. Any updates will be recorded in the tool.	**By 31 December (year N-1)**

Step	Description	Timeline
Regular feedback	- The employee and reporting officer are encouraged to meet at any time during the performance development cycle for feedback on the status of and progress on performance. - Quarterly feedback is recommended but reporting officers are required to record at least two feedback meetings per reporting cycle in the tool; recording the outcome of such feedback meetings in the tool may be done at any time but is mandatory for the two review meetings in May and October.	**Continuous review, incl. at least: first review: by 15 May second review: by 15 October (year N)**
Self-assessment	- Employees prepare for their review meeting at the end of the appraisal period by carrying out a self-assessment of their performance.	**By 30 November (year N)**
Annual review	- The reporting officer holds an annual review meeting with the employee at the end of the year. The review focuses on: • feedback on performance based on proven achievement of goals – the "what" • overall qualitative feedback considering the employee's conduct in service, the broadening and deepening of their tasks, experience, and responsibilities – the "how" • the individual development plan - In light of this discussion, the reporting officer drafts the report and shares it with the countersigning officer for harmonisation, possible comments and endorsement.	**By 31 January (year N+1)**

Step	Description	Timeline
Calibration meeting	- Reporting officers and countersigning officers hold a calibration meeting to ensure consistent reports throughout the business area.	**By 31 January (year N+1)**
Appraisal report	- Following the calibration meeting, the reporting officer shares the report with the employee. - The employee may enter comments upon receipt of the report. Such comments will complete the reporting cycle. - The report is recorded in the tool and is deemed final.	**By 31 January (year N+1)**
Requests for conciliation/ objection procedure before the Appraisals Committee	- In cases of disagreement, in particular in cases of a significant divergence of views with the reporting officer, the employee may ask for conciliation by contacting the countersigning officer and reporting officer within two weeks of receipt of the report. - If the conciliation process leads to an amendment of the report, HR should be informed accordingly within two weeks of the conciliation meeting. - Any employee who is still dissatisfied with their report following conciliation may challenge it by raising an objection in accordance with Article 110a ServRegs within two weeks of receipt of the conciliation report.	**By end February (year N+1)**

Note: Year N is the relevant performance period that is being reported upon; year N-1 is the preceding year and year N+1 the subsequent year during which the reporting is concluded.

Circular No. 367
(11 May 2015, 17 February 2017, 1 January 2021)

Absences for Health Reasons

Article 1
Article 62a and 62b Sick leave and Incapacity

A) Justification and registration of sick leave

(1) An employee who is unable for health reasons to perform all or part of his duties must inform his immediate superior, or that person's deputy, by phone on the first day of absence and at the same time state the address and the phone number at which he can be reached. If the employee cannot reach his immediate superior, or that person's deputy, by phone, he must inform him by electronic mail. He must however phone afterwards, and at the latest on the third day of absence.

On the first day of the employee's absence for health reasons, his immediate superior, or that person's deputy, shall complete an electronic form in order to assure the correct registration of the sick leave.

If no information is received from the employee, his immediate superior, or that person's deputy, will inform the Human Resources department as well as the Occupational Health Service.

The Occupational Health Service will call the employee in case no information is received by phone or by email on the first day of absence. The Occupational Health Service will then inform the employee's immediate superior, or that person's deputy, as well as the Human Resources department.

The above procedure also applies to any information on extension of the absence by reason of sickness or accident.

The employee must further indicate the likely duration of the absence and its impact on the proper functioning of the service.

(2) Where an employee's inability to perform his duties exceeds three working days, or where he has already taken uncertified sick leave for three working days in a given calendar year, he will be required to produce a medical certificate.

That certificate shall state;

- the name and date of birth of the staff member
- the date of issue of the certificate
- the name and signature of the doctor
- the start date and estimated end date of the absence on grounds of health

No diagnosis is to be included.

f the doctor consulted refuses to issue a medical certificate, the employee must supply the Office with the doctor's name and address. This will obviate the need to provide a medical certificate.

The requirement to produce a medical certificate will also be deemed to have been met if the employee phones the Occupational Health Service and provides them with sufficient details about the nature of the illness and the date on which it began. The duration of the absence deemed to be covered by a certificate will be the duration agreed with the Occupational Health Service. The above procedure also applies to justifying any extension of the absence by reason of sickness or accident.

The Occupational Health Service will retain the details of the nature of the illness in accordance with medical secrecy rules.

(3) A copy of the medical certificate, or the name and address of the doctor who refused to issue a medical certificate, must be sent at the latest on the working day following the third day of uncertified sick leave within a given calendar year in accordance with the instructions given by HR to that effect. In exceptional cases the medical certificate may also be submitted by normal post.

The Office shall conduct random checks of original certificates. For this purpose, employees shall keep the originals of all submitted documents, throughout the period of absence for health reasons and then for 4 years thereafter.

The Office also reserves the right to perform any additional checks on the authenticity of these documents.

In case the employee fails to provide original certificates upon request from the administration, the Office, without prejudice to any other steps under the Service Regulations, may consider the employee on unauthorised absence for the period concerned, and apply the consequences set forth Article 63 of the Service Regulations. In particular, it may recover any remuneration that should have been deducted pursuant to Article 65, paragraph 1(d).

(4) On resuming his duty after absence due to sickness, the employee must send an electronic form to his immediate superior and to the Occupational Health Service informing both parties of his return to work.

(5) Decisions on reintegration during sick leave are taken by the occupational health service. The employee may contest such a decision. The contestation shall have no suspensive effect on the employee's obligation to return to work.

B) Sick leave verification

(1) An employee on sick leave must conduct themselves in line with their statutory obligations and in a manner conducive to a return to work. They must cooperate at all times with the relevant services and medical practitioners appointed by the President to facilitate a verification of their state of health.

In particular, and upon the request by the appointed medical practitioners, they shall provide without delay all necessary information requested by the medical practitioners for a conclusive medical assessment pertaining inter alia to the diagnosis, the treatment and the prognosis of their medical state.

(2) Pursuant to Article 62a(6) of the Service Regulations, the President may decide on ad hoc verification upon the initiative of the employee's immediate superior or that person's deputy or the Occupational Health Service.

To that end, the employee is given prior notice of the date and time of the medical examination. Such examination usually takes place in the Office’s premises or at the doctor’s practice. Where appropriate and upon the employee’s request, the medical examination may be organised at the employee’s address.

(3) In addition, the President of the Office mandates the Occupational Health Service to systematically proceed with a medical examination of an employee after every 30 working days of cumulated sick leave over a period of the last 12 months within the initial period of sick leave defined in Article 62a(7) (a) of the Service Regulations.

In such case, the Occupational Health Service will request the employee to undergo the medical examination either at the Office's premises or with the medical practitioner appointed by the President to whom this task was delegated. In case the employee is unable to attend such an examination, they must provide corresponding evidence.

(4) If the employee fails to submit evidence or to provide a legitimate reason for not being available for attending the medical examination, Article 63 of the Service Regulations applies.

(5) Third parties may not attend any medical examinations.

(6) The employee concerned, the Occupational Health Service, the Human Resources department and the immediate superior of the employee, or that person's deputy, will be informed of the outcome of a verification. If the medical practitioner advising the President of the Office concludes that sick leave is not or no longer justified, the employee shall resume their duties on the following working day at the latest.

(7) The employee may contest such medical conclusion by written request within one working day following the date of notification. In such case, the arbitration procedure set forth in Article 91 of the Service Regulations applies. The contestation shall have no suspensive effect on the employee's obligation to return to work.

(8) The above provisions shall apply during the period of partial incapacity provided in Article 62b(6) of the Service Regulations.

A verification of sick leave of an employee in partial incapacity under paragraph B(2) above, shall be conducted as prescribed therein, during the

relevant time slots corresponding to the said employee's agreed working time.

C) Sick leave or incapacity elsewhere than at the place of residence

Employees must obtain the prior permission of the President of the Office in order to leave their place of residence, as defined in Article 23 of the Service Regulations, during a period of sick leave, extended sick leave, partial or 100% incapacity.

D) Sick leave in the case of spa cures

(1) Sick leave under Article 62a of the Service Regulations to take a spa cure will be granted to employees, on request, under the conditions laid down in the Implementing Rules for Articles 83a, 84 and 84a of the Service Regulations, where a medical practitioner appointed by the President sees it as being an absolute medical necessity within the meaning of section F (b) point 4.8a) of part I of the Implementing Rules for Articles 83a, 84 and 84a of the Service Regulations, or else as being a medical necessity within the meaning of section F (b) point 4.8b) thereof, and prescribes the spa cure's duration. In such cases, the medical practitioner appointed by the President will usually examine the employee, taking into account the spa-cure prescription issued by the employee's doctor and submitted to the Office's medical advisory unit.

(2) The Office's medical advisory unit will inform the Human Resources department, Occupational Health Service and the employee concerned of his conclusions.

If the spa cure is deemed to be an absolute medical necessity within the meaning of section F (b) point 4.8a) of part I of the Implementing Rules for Articles 83a, 84 and 84a of the Service Regulations, the health insurance provider will also be informed of the decision, and the employee will be granted sick leave for the entire duration of the spa cure.

If the spa cure is deemed to be a medical necessity within the meaning of section F (b) point 4.8b) of part I of the Implementing Rules for Articles 83a, 84 and 84a of the Service Regulations, the employee will be granted sick leave and annual leave in equal measure for a spa cure of up to 21 calendar days.

If the spa cure is not deemed to be necessary, or if the employee chooses not to have its necessity certified, no sick leave will be granted.

If, despite this, the employee goes on a spa cure within the meaning of section F (b) point 4.8b) of part I of the Implementing Rules for Articles 83a, 84 and 84a of the Service Regulations, he must take annual leave for the entire duration of the cure.

E) Working time during partial incapacity

The working time during partial incapacity shall be determined in full hours or any percentage of the normal 40-hour working week corresponding to the working schedule fixed.

F) Periodic review of incapacity

Unless another frequency is established by the medical practitioner assessing incapacity, periodic reviews of the employee's state of health shall take place at least every two years. A review may take place earlier on the initiative of the President of the Office or upon reasoned request of the employee.

Article 2
Articles 62, 62a and 62b - Visits to the doctor; medical treatment

(1) All visits to doctors, dentists or specialists should be made outside working hours where possible. Such visits internally or externally in no way count as working hours. If such absence must occur during working hours, the employee must comply with the applicable provisions on absence. He must make use of leave, flexitime or compensation hours and thus inform his immediate superior prior to the absence of the time and duration of his absence.

(2) Medical visits during working time resulting from an accident on the EPO premises and/or commuting accident shall be registered as sick leave upon approval of the Occupational Health Service on the initiative of the staff member.

Article 3
Entry into force

This circular will enter into force on 1st January 2021.

The President of the European Patent Office
António Campinos

Circular No. 390
(18 December 2017, 15 December 2023)

New transfer coefficients (Article 12 of the Pension Scheme Regulations and New Pension Scheme Regulations)

As stated in paragraph iv) of Rule 12.2/1 of the Implementing Rule to Article 12) of the Pension Scheme Regulations, the age related coefficients used for the transfer of pension rights and published in the Annex to Rule 12.2/1(iii) shall be established by the President of the Office on the basis of an actuarial study.

The President has requested the Actuarial Advisory Group in September 2023 to examine the appropriateness of these coefficients for the Pension Scheme and the New Pension Scheme, considering the latest actuarial hypothesis and parameters.

On the basis of a recommendation by the Actuarial Advisory Group and after consultation with the General Consultative Committee, the coefficients applicable for Article 12 of the Pension Scheme Regulations and the Implementing Rules thereto as from 1 January 2024 shall be set as follows:

Age*	Coefficient	Age	Coefficient
40	14.286	53	16.699
41	14.397	54	17.043
42	14.518	55	17.418
43	14.644	56	17.820
44	14.776	57	18.247
45	14.917	58	18.698
46	15.069	59	19.170
47	15.236	60	19.666
48	15.419	61	19.475
49	15.623	62	19.091
50	15.850	63	18.698
51	16.104	64	18.295
52	16.385	65	17.884

* As the population of the Pension Scheme is a closed group, only the coefficients for the ages that are still relevant are published.

The coefficients applicable for Article 12 of the New Pension Scheme Regulations and the Implementing Rules thereto as from 1 January 2024 shall be set as follows:

Age	Coefficient	Age	Coefficient
20	5.996	43	11.975
21	6.178	44	12.342
22	6.367	45	12.721
23	6.560	46	13.111
24	6.760	47	13.513
25	6.966	48	13.927
26	7.178	49	14.353
27	7.396	50	14.792
28	7.622	51	15.243
29	7.855	52	15.707
30	8.095	53	16.184
31	8.342	54	16.673
32	8.597	55	17.174
33	8.859	56	17.687
34	9.130	57	18.212
35	9.409	58	18.747
36	9.696	59	19.291
37	9.992	60	19.849
38	10.297	61	19.681
39	10.612	62	19.301
40	10.937	63	18.912
41	11.272	64	18.513
42	11.618	65	18.104

Munich, 15 December 2023.

The President of the European Patent Office
António Campinos

Circular No. 392
(9 May 2018)

Guidelines for applying Article 72(1) and (2) ServRegs concerning expatriation allowance

This circular lays down criteria for the interpretation of Article 72(1) and (2) ServRegs concerning expatriation allowance. It aims to provide clarity and transparency on certain aspects of the expatriation allowance, namely permanent residence, service with national administrations and international organisations, and dual nationality.

Article 1
Permanent residence

(1) For the purposes of Article 72(1)(b) and (2) ServRegs, the country in which an employee is permanently resident is the country with which he maintains the closest objective and factual links. The criteria for assessing permanent residence include, inter alia:

(a) physical presence in the country concerned,
(b) length of time spent in that country,
(c) intention to remain in that country.

(2) Permanent residence in a country is deemed to be interrupted only when an employee effectively leaves that country with the intention to settle permanently in another country pursuant to paragraph (1) of this article.

(3) For the purposes of paragraphs (1) and (2) of this article, an employee may be asked to provide relevant documents such as previous employment contract(s), certificates of registration/de registration with local authorities, tax returns or social security payments.

(4) Periods of study in the country concerned are taken into account for the relevant periods of permanent residence under Article 72(1)(b) and (2) ServRegs.

Article 2
Service with national administrations and international organisations

For the purpose of calculating the relevant periods of permanent residence under Article 72(1)(b) and (2) ServRegs, the term "service" does not include previous service in national administrations or with international organisations in cases where the national administration or international organisation recruited the employee in the country where he served.

Article 3
Dual nationality

For clarification purposes, Article 72(1)(b) ServRegs also applies to employees with dual nationality including that of the country in which they will be serving.

Article 4
Entry into force[1]

This circular enters into force on 15 May 2018.

Munich, 9 May 2018

The President of the European Patent Office
Benoît Battistelli

1 Circular No. 392 shall have no retroactive effect on employees to whom the expatriation allowance is currently being paid pursuant to superseded internal practice. See decision of the President to this circular.

Circular No. 397
(1 January 2020)

Guidelines for the application of Article 52 of the Service Regulations on professional incompetence

I. Introduction

The EPO's long-term sustainability relies on the performance of its employees. It is therefore expected that all EPO employees provide contributions commensurate with their job profile, grade, seniority[1] and statutory working hours.

However, situations may arise where an employee's overall performance falls to an unacceptable level with regard to the achievement of their objectives and/or the competency requirements of the job profile. The existing framework of Circular No. 365 ("General Guidelines on the EPO Competency Framework") describes the expectations for each job profile and the competencies required (including elements of attitude to work and dealing with others). It is complemented by both Circular No. 366 ("Guidelines on performance development"), which sets out the performance development cycle, and the job description that is drafted for – and given to – each employee, indicating their job group, job profile and a description of their tasks and duties.

II. PROCEDURE FOR REMEDYING CASES OF LACK OF ABILITY AND EFFICIENCY

In cases where performance is unacceptable, it is the responsibility of the reporting officer and the countersigning officer to indicate this in the appraisal report, and to take appropriate support measures to assist the employee in returning to a satisfactory level of performance.

Assisting an employee in returning to a satisfactory level of performance involves providing them with:

- a description of the unacceptable aspects of their performance;
- notification of the improvements that are expected;
- a clear timeline for achieving these improvements;
- support (e.g. in the form of coaching, training, etc.).

If the employee does not return to a satisfactory level of performance within a reasonable timeline, they must be advised that this could lead to a professional incompetence procedure under Article 52 of the Service Regulations. A reference to professional incompetence should be included in the appraisal report.

Sickness management and disciplinary matters are governed by different provisions.

1 in terms of professional experience

III. PROFESSIONAL INCOMPETENCE PROCEDURE

Professional incompetence is defined as an employee's lack of ability and/or efficiency (as outlined in Circular No. 365 and including elements of attitude to work and dealing with others) in the performance of their duties and in relation to their job profile, grade and seniority[1]. For an employee, such incompetence is demonstrated by an unacceptable, i.e. severe and recurring or persistent, departure from the expected standards of performance. It is incumbent upon the Office to take specific measures to deal with cases of professional incompetence.

Cases of professional incompetence are exceptionally rare, and the Office actively seeks to avoid, as far as possible, the need to initiate procedures to deal with them.

The professional incompetence procedure comprises the following steps:

Step 1

- Upon completion of three consecutive annual appraisal reports indicating an unacceptable level of overall performance, the reporting officer and countersigning officer escalate the case to the President with a view to initiating a professional incompetence procedure under Article 52 ServRegs.
- The President, after considering the circumstances of the individual case, decides whether to refer the case to the Joint Committee. If the President decides to do so, the Joint Committee is provided with a reasoned proposal for appropriate measures in accordance with Article 52(2) ServRegs, namely that the employee be downgraded. In the case of downgrading, the employee is assigned to an appropriate step in the next lower grade.
- The President takes a decision after receiving the reasoned opinion of the Joint Committee in accordance with the procedure set out in Article 53b ServRegs.

Step 2

- Following the completion of step 1 and the implementation of the measures provided therein, should the employee receive two further consecutive appraisal reports indicating that their overall performance is unacceptable, the reporting officer and countersigning officer escalate the case to the President with a view to initiating a new professional incompetence procedure under Article 52 ServRegs.
- The President, after considering the circumstances of the individual case, decides whether to refer the case to the Joint Committee. If the President decides to do so, the Joint Committee is provided with a

1 in terms of professional experience

reasoned proposal for imposing one of the measures set out in Article 52(2) ServRegs, up to and including dismissal.

- After receiving the reasoned opinion of the Joint Committee, the President takes a decision in accordance with the procedure set out in Article 53b ServRegs.

IV. ENTRY INTO FORCE

This circular will enter into force on 1 January 2020.

Transitional measure

In addition to assessments carried out in the first quarter of 2020 relating to performance in 2019, consecutive appraisal reports with an assessment described as unacceptable and/or of a box marking "8" and/or including the comment "far below the expected level" issued before 1 January 2020 may be taken into account and combined with staff reports issued as of 1 January 2020 for the purposes of applying the professional incompetence procedure according to Article 52 ServRegs as described under section III. above.

Application of a step 2-measure can be considered only, once a step 1-measure has been applied after entry into force of this circular.

Circular No. 404
(16. December 2019)

Contribution rate to the incapacity scheme for fixed-term employees upon termination of service, applicable as from 1 January 2020 (Article 62c Service Regulations)

Pursuant to Article 62c(8) of the Service Regulations, the total contribution required to meet incapacity payments made under Article 62c shall be set by the President of the Office, on the basis of an actuarial study.

As from 1 January 2020, the total contribution rate to finance such incapacity payments is maintained at 0.48% of the basic salary, based on the results of an actuarial study made in 2019.

The employee contribution rate charged to fixed-term employees is one third of the total contribution rate or 0.16% of the basic salary.

Munich, 16 December 2019.

The President of the European Patent Office
António Campinos

Circular No. 405
(15. July 2022)

Extension and conversion of fixed-term appointments

Articles 1(7) and 8(2) and (4) of the Service Regulations

Preamble

The European Patent Office (EPO) is becoming a more agile and adaptable organisation that is better able to respond to the constantly evolving patent landscape. A significant step in this direction was taken with the adoption of the employment framework set out in CA/D 2/18. While establishing that employees on fixed-term appointments may not account for more than 20% of the total budgeted posts at the EPO, it enhances the EPO's ability to create a more flexible workforce and gives it the ability to plan and adapt its workforce to its needs.

The EPO's employees are at the centre of its efforts to respond to the ongoing changes in the patent system and they drive its achievements. The EPO has a responsibility to ensure that, as it achieves a more flexible workforce, its employees have both the predictability they need to plan effectively and transparency in how decisions on fixed-term contracts are taken.

This new circular therefore sets out the conditions provided for in CA/D 2/18 and clarifies the procedure for extending and converting fixed-term appointments for employees in job groups 4 to 6. It outlines a proactive, standard and transparent process that gives employees on fixed-term appointments greater clarity about their future prospects at the EPO.

Central to the concept of creating predictability are an initial fixed term of five years, an extension for another five years and then conversion into permanent employment. Underlying this predictable pattern is the added certainty that, for job groups 4, 5 and 6, a fixed-term appointment may never be extended beyond ten years of continuous service.

Equally important are the conditions for extension and conversion. This circular therefore clearly defines the factors which influence the decision on whether to extend or convert a fixed-term appointment in job groups 4, 5 and 6. Further predictability is provided by clearly stating by when decisions are taken.

The EPO is committed to retaining and developing talented staff. Circular No. 405 provides the tool needed to bringing together the two goals of creating a flexible and adaptable workforce and providing certainty to employees on fixed-term appointments.

Article 1
Term of fixed-term appointments

(1) Fixed-term appointments are concluded for an initial term of five years.

(2) Subject to Article 2(2), a fixed-term appointment will be extended once for five years and then converted into permanent employment.

(3) A fixed-term appointment may never be extended beyond ten years of continuous service. Periods of non-active status count towards the maximum period of continuous service.

(4) Subject to Article 2(2), the President may decide to convert a fixed-term appointment into permanent employment before ten years of continuous service have elapsed.

Article 2
Conditions for extension and conversion

(1) Once a year, the President will assess all fixed-term appointments that are due for extension or conversion.

(2) Fixed-term appointments are extended or converted subject to both:

(a) the needs of the service, i.e. the need for a particular role for the EPO's operations and strategic plans;

and

(b) the employee's performance over the course of their appointment so far, duly considering the extent to which they have achieved their individual goals and contributed to the overall goals of the EPO. In particular, employees who upon recruitment did not demonstrate the required proficiency in the official languages as set out in Circular No. 364, Part I.2, and were recruited under the alternative set out in Part I.3, will have to meet the following requirements:

(i) for job group 4 fixed-term employees, the second official language at B2 level and the third official language at A1 level one year before the date of the possible extension, and the third official language at B2 level one year before the date of the possible conversion; [1]

(ii) for job group 5 and 6 fixed-term employees, the second official language at B2 level one year before the date of the possible extension.

(3) The President will assess each fixed-term appointment individually, duly considering the employee's appraisal reports, any input from their line managers and the relevant HR Business Partner and, where applicable, the employee's written comments referred to in paragraph 4.

1 Levels are as defined in the Common European Framework of Reference for Languages.

(4) When the President does not intend to extend or convert a fixed-term appointment, they will invite the employee to submit written comments. The employee will have no less than ten working days to do so. If the appointment is then not extended or converted, the employee will be informed of the reasons why.

(5) The President will inform an employee on a fixed-term appointment of their decision on whether or not to extend or convert the appointment no later than 12 months before it is due to end.

Article 3
End of contract

If a fixed-term appointment ends without being extended or converted, the employee will be entitled to all the benefits set out in the applicable conditions of employment. An employee whose fixed-term appointment ends for any reason other than resignation will also be entitled to outplacement services offered by an external provider selected by the EPO.

Article 4
Transitional measures

For all fixed-term appointments concluded before this circular enters into force, the EPO will extend or convert them in accordance with the general principles as described in the preamble to this circular.

Article 5
Entry into force

This circular enters into force on 15 July 2022.

Circular No. 411
(13 July 2021, 11. May 2023[1])

Application of Articles 70a and 71 ServRegs concerning young child and education allowances

The present circular lays down implementation details for Articles 70a and 71 ServRegs.

I. Young child allowance

Article 1
Entitlement to doubled young child allowance

(1) For the purpose of determining the entitlement to doubled young child allowance, regular attendance of a recognised childcare facility means

(i) attendance of a facility that is located in an EPO host state and that meets the conditions indicated in the Annex to the present circular

or attendance of a facility that is located in an EPO member state other than an EPO host state and that is recognised by the relevant local authorities, and

(ii) having a contract with the childcare facility that provides for weekly attendance.

(2) For the purpose of determining entitlement to the doubled young child allowance, the average costs invoiced by the facility over a year will be taken into account.

II. Education allowance

Article 2
Entitlement to reimbursement of direct education costs

(1) For the purpose of determining entitlement to the reimbursement of direct education costs, regular attendance of an educational establishment on a full-time basis means

(i) at pre-school level, at least 20 hours attendance per week

(ii) for primary and secondary level, receiving an education corresponding to the compulsory educational requirements in the country where the studies are pursued

(iii) at post-secondary level, an equivalent to an average of 60 ECTS (European Credit Transfer and Accumulation System) per academic year in a course of studies leading to a diploma or other officially recognised qualification. Proof of full-time attendance such as

1 Amended by decision of the President from 11 May 2023.

a copy of the transcript of records or a declaration from the educational establishment is required, even in cases where 60 ECTS are not achieved (because of failed exams or for other reasons).

(2) The following educational arrangements are excluded:

(i) education as an unregistered student
(ii) training lasting less than three months
(iii) training that does not lead to a diploma or certificate officially recognised by the local public authorities responsible for education.

(3) Entitlement to education allowance continues during an internship, traineeship, apprenticeship or other similar arrangements attended during a course of studies, provided that the educational establishment certifies that it is a compulsory part of the full-time curriculum.

(4) Attendance can be physical or remote.

(5) Full-time studies are regarded as discontinued or finished at the end of the month in which the formal studies end, or in which the official diploma is issued, whichever comes first.

Article 3
Reimbursable expenses

(1) For the purpose of direct education costs, the following expenses are reimbursable:

(i) fees that are required to enrol a child in an educational institution. Such fees cover registration, admission, application or entrance fees
(ii) tuition fees for full-time attendance which are invoiced by the educational institution and certified by the educational institution as being necessary for attendance
(iii) capital fees or development fees levied by educational institutions to fund the construction, refurbishment and maintenance of buildings. Such fees may be levied at the time of first enrolment, every year or as needed.

(2) The reimbursement of direct education costs is based on actual costs incurred. Discounts, such as those for siblings, will be taken into account.

Article 4
Application of ceilings

(1) For the purpose of the application of the ceiling for secondary education, the cycle structure (distinction between primary and secondary education) of the relevant educational establishment will be taken into consideration. In case of doubt, the typical cycle structure of the country where the school is located will apply.

(2) For employees serving in Brussels, the ceilings of Munich will apply.

(3) Pensioners entitled to the education allowance will benefit from the ceilings applicable to their last place of employment.

Article 5
Definition of living at home

For the purpose of defining the applicable monthly lump sum for indirect education costs paid for a child in post-secondary education, a child is considered to be living at home when they live with one or both of their parents.

Article 6
Entitlement to the lump sum for indirect costs

(1) The monthly lump sum for indirect education costs is due and paid automatically from the month in which the child turns four and is maintained as long as the child is under 18.

(2) Should the child still be in secondary education on their eighteenth birthday, entitlement to this lump sum may be extended until finalisation of their secondary education.

Article 7
Education provided by a European School

Any establishment managed or accredited by the Board of Governors of the European Schools is considered to have the status of a European School.

III. Payment/reimbursement and supporting documentation

Article 8
Requests for payment/reimbursement

(1) Requests for payment of the doubled young child allowance must be submitted within six months of the date on which the entitlement commences.

(2) Requests for the reimbursement of direct education costs must be submitted during the academic year within which the costs are incurred and, in any event, no later than three months from the last day of the applicable academic year.

Article 9
Supporting documentation and checks

(1) For the payment of the doubled young child allowance, a copy of the contract must be attached to the request. The employee must be in a position to evidence that the average monthly costs invoiced by the facility over a year amount to at least twice the amount of the young child allowance.

(2) For the reimbursement of direct education costs, the relevant invoices must be attached to the request.

(3) On request, the employee will provide the Office with any additional documentation within four weeks.

ANNEX

List of recognised childcare facilities

Germany

Childcare facilities that have been approved by the local authorities and to which the following laws apply:

- *Kinderbetreuungsgesetz der Bundesländer*
- *Infektionsschutzgesetz*
- *Datenschutzgesetz*

Explanatory note:

These are facilities registered with the local authorities including:

- registered day-care for children not yet attending school, for example crèche, kindergarten and pre-school day care of international schools
- host parents *(Tagesmutter, Kinderfrau)*

The *Tagesmutter* must be a qualified day-care childminder and must have the authorisation granted by the Landesjugendamt or the Bezirksjugendamt. This authorisation is only necessary when children are being looked after by a Tagesmutter for more than 12 hours per week. A certificate of good conduct *(Führungszeugnis)* for a Kinderfrau must be provided.

The Netherlands

Childcare facilities registered under the Dutch law on childcare *(Wet Kinderopvang)*

Explanatory note:

These are facilities registered by the national authorities *(Landelijk Register Kinderopavang LRK)* including:

- registered day-care for children not attending school, for example crèche, play groups *(peuterspeelzaal)* including pre-school childcare in international schools
- host parents via a registered host parents' organisation *(gastouder/ gastouderbedrijf)*

Austria

Childcare facilities that have been approved by the local authorities and to which the following laws apply:

- *Kinderbetreuungsgesetz /-regelungen der Bundesländer*
- *Datenschutzgesetzz*

Explanatory note:

These are facilities registered by the respective *Bundesland* including:

- registered day-care for children not yet attending school, for example crèche *(Kinderkrippe)*, kindergarten including pre-school day-care of international schools
- host parents *(Tagesmutter, Kinderfrau)*

The *Tagesmutter* must be a qualified day-care childminder and must have the authorisation granted by the Magistratsabteilung 11 (for Vienna) or the *Jugendwohlfahrtsverbände der Bundesländer*. A certificate of good conduct *(Führungszeugnis)* must be provided for a *Kinderfrau*.

Other EPO member states

Childcare facilities that are recognised by the relevant local authorities

All EPO member states – facilities that are not recognised

- Au pair/*babysitter/Krabbelgruppe*/non-approved *Spielgruppe*
- Granny au pair
- Summer camps or the like

Any other facilities will be considered by the Office on a case-by-case basis.

Circular No. 416
(15 December 2021, 15 December 2023)

Total contribution rate to the healthcare insurance scheme (Article 83a(1) Service Regulations)

As stated in Article 83a(1) of the Service Regulations, the total contribution rate to the healthcare insurance scheme will be set by the President of the Office, on the basis of an actuarial study.

The total contribution rate to the healthcare insurance scheme is set at 9.6% of the basic salary or pension, based on the results of the actuarial study carried out in 2023.

Regarding the contribution rate for staff and pensioners, based on the rules laid down in Article 83a(1)(e) of the ServRegs as well as in Circular No. 336, the provisional rate for 2024 is 3.15% of the basic salary or pension.

This circular enters into force on 1 January 2024.

Munich, 15 December 2023.

The President of the European Patent Office
António Campinos

Circular No. 417
(15. December 2021, 15. December 2023)

Contribution rates to the New Pension Scheme

At its 115th meeting in October 2008, the Administrative Council adopted the New Pension Scheme (NPS) applicable to employees entering the Office on or after 1 January 2009 (cf. CA/D 12/08).

Article 35 of the New Pension Scheme Regulations states that the contribution to this pension scheme will be set by the President of the Office, on the basis of an actuarial study.

In the framework of the 2023 actuarial study (cf. CA/52/23) to review pension contribution rates, the President has requested the Actuarial Advisory Group to examine the level of the contributions to the original and new pension schemes, considering the latest actuarial hypothesis and parameters. Having regards of this recommendation, the contribution rate applicable as from 1 January 2024 will be set as follows.

The **New Pension Scheme** total contribution rate (Office and staff) is **set** at **28.5**% of the basic salary, up to a ceiling of twice the salary for grade G1, step 4.

Contributions to the New Pension Scheme by the Office and staff are apportioned 2/3rds and 1/3rd respectively.

This circular enters into force on 1 January 2024.

Munich, 15 December 2023.

The President of the European Patent Office
António Campinos

Circular No. 418
(15. December 2021)

Contribution rate to the incapacity scheme for fixed-term employees upon termination of service, applicable as from 1 January 2023 (Article 62c Service Regulations)

Pursuant to Article 62c (8) of the Service Regulations, the total contribution required to meet incapacity payments made under Article 62c shall be set by the President of the Office, on the basis of an actuarial study.

Circular No. 404 on the contribution rates to the incapacity scheme for fixed-term employees upon termination of service applicable as from 1 January 2020 remains in force for 2022

As from 1 January 2023, the total contribution rate to finance such incapacity payments is maintained at 0.48% of the basic salary, based on the results of an actuarial study made in 2021.

The employee contribution rate charged to fixed-term employees is one third of the total contribution rate or 0.16% of the basic salary.

Munich, 15 December 2021.

The President of the European Patent Office
António Campinos

Circular No. 419
(10 May 2022, 1 July 2024)

Guidelines on new ways of working

Part I
Outline of teleworking

Article 1
Geographical scope

Teleworking may be performed at:

(a) the primary teleworking place at the employee's residence or at any other location within their country of employment.

(b) any other location within the territories of the contracting states, as described in the annex to this circular.

Article 2
Eligibility and general principles

(1) All employees are eligible for teleworking. Teleworking may be limited or excluded if incompatible with the nature of the tasks performed. The eligibility of newly recruited employees during their probation shall be assessed by their line manager with the aim of ensuring their smooth onboarding.

(2) Teleworking is voluntary.

(3) Teleworking must be compatible with the interests of the service, in particular with the proper performance of the employees' duties, the smooth functioning of the Office and effective team collaboration as well as with considerations of health and safety, information security and IT operations.

(4) The choice of an employee to telework will have no adverse effect on their entitlements to remuneration and leave or to their training, performance appraisal and career opportunities.

(5) The choice of an employee to telework will carry no costs to the Office unless otherwise provided for in the present circular.

(6) The President of the Boards of Appeal may adopt general guidelines for the application of the present circular to the members of the Boards of Appeal.

Article 3
Modalities of teleworking

Employees may telework in accordance with the following rules:

(a) Within the limitations provided for in the present circular, employees may perform their duties through any combination of working on-site at their place of employment and teleworking that suits their work-life balance.

(b) Employees may telework in blocks of full or half working days.

(c) Working on-site at an EPO location other than the employee's place of employment will be subject to capacity at said location.

(d) Teleworking under Article 1(b) of the present circular may not exceed 60 working days a year.

Article 4
Sense of belonging

(1) To foster a sense of belonging and to ensure smooth and efficient team collaboration, a minimum on-site attendance of 60 working days a year at the employee's place of employment is required. All days must be within the normal working week.

(2) The minimum on-site attendance required under paragraph 1 will be reduced as follows:

- to 40 working days for employees with more than 70 and up to 140 active working days in a year
- to 15 working days for employees with more than 20 and up to 70 active working days in a year
- to 10 working days for employees with 20 or fewer active working days in a year.

Article 5
Exceptional circumstances

(1) Where justified in the interests of the service, and notwithstanding the provisions set out in the present circular, an employee may exceptionally be required to be present on-site on days they had scheduled to telework. In such cases, the employee will be required to report for work on-site at their place of employment within two working days. If the employee is away from their country of employment, travel costs will be reimbursed by the Office as duty travel.

(2) In exceptional cases, the Office may request or instruct employees to telework.

Part II
Roles and responsibilities

Article 6
Teleworking equipment

The Office provides standard teleworking equipment for the employee's primary teleworking place.

Article 7
Considerations and responsibilities for line managers

(1) Line managers are responsible for:

(a) ensuring business continuity, in particular the proper discharge of the team's duties and the smooth functioning of the Office
(b) maintaining regular contact with their team, ensuring team collaboration, efficiency and the smooth functioning of the unit and fostering a sense of belonging
(c) regularly discussing and reviewing teleworking plans with their team to work out an arrangement that suits individual needs for flexibility while maintaining connection with the team, including co-ordinating team presence on-site at regular intervals as necessary.

(2) Line managers have access to information regarding their team's working locations.

(3) Line managers may request support from the human resources and/or occupational health and safety departments for decisions pertaining to the present circular.

(4) Teleworking may be limited or suspended, or the approval under Article 10(2) withdrawn, in the event of:

(a) non-compliance with the minimum attendance requirements
(b) negative impact of teleworking on the employee's performance
(c) any behaviour not compatible with the needs of effective team collaboration
(d) other operational needs.

(5) A decision under paragraph (4) must be taken with at least two months' notice.

Article 8
Considerations and responsibilities for employees

(1) Employees are responsible for:

(a) aligning with their line manager on a regular basis on their general working arrangements and their availability during the working day, notably also with regard to minimum attendance under Article 4.
(b) keeping their line manager apprised of their teleworking location, correctly registering their location and teleworking periods in the online tool and ensuring that their line manager and colleagues are able to contact them
(c) ensuring performance, respecting work priorities, objectives and deliverables when teleworking
(d) actively maintaining regular contact with their line manager and colleagues when either teleworking or working on-site
(e) ensuring that their work environment is conducive to work and concentration
(f) reporting for work on-site at their place of employment on time when required under Article 5(1)
(g) taking good care of all equipment provided by the Office for teleworking
(h) contacting the Office without delay in the event of loss or damage of teleworking equipment, reporting technical problems and following instructions to resolve them
(i) if in case of (h) above no solution has been found and technical reasons prevent teleworking, exploring alternative options to ensure the delivery of their work by coming to Office premises without delay or taking leave or any other arrangement agreed with their line manager.

(2) With regard to data protection and security, employees are responsible for:

(a) complying with applicable policies, procedures and guidelines, such as the EPO data protection rules
(b) preventing unauthorised access to non-public information, for instance, by not keeping any printed non-public documents at their teleworking place
(c) seeking guidance from their line manager if they are unsure whether a piece of information is non-public; if there is a risk that a non-public document has entered or could enter the public domain, they must inform their line manager immediately and ask for guidance.

Article 9
Health and safety

(1) The Office provides all employees with guidance on occupational health and safety, ergonomics and office furniture as well as on environmental sustainability in relation to telework.

(2) Employees must ensure that their teleworking place complies with the safety and health requirements established by the Office and that it is safe and conducive to their own well-being. To that end, they must:

(a) regularly check the ergonomics and safety of their workplace in accordance with the Office's guidance and maintain an adequate level of both
(b) seek advice from the Office's occupational health and safety experts if in doubt.

Part III
Workflow, benefits, costs and working hours

Article 10
Workflow and registration

(1) Employees must register their working/teleworking plans in advance in the online tool and ensure at all times that all registrations are up to date and reflect the actual working mode.

(2) A request for teleworking under Article 1(b) requires the prior authorisation of the line manager.

Article 11
Remuneration and leave when teleworking

Teleworking will have no adverse effect on employee entitlements to remuneration and leave. Specifically, an employee's entitlement to the expatriation allowance and/or home leave will remain unaffected by their decision to telework under Article 1(b).

Article 12
Teleworking costs

(1) Employees are responsible for the arrangement of a suitable workplace for teleworking, including the provision and general upkeep of a suitable internet connection. They bear all costs associated with teleworking in so far as not otherwise described in the present circular.

(2) Employees bear the costs associated with traveling between the teleworking places and the Office premises in so far as not otherwise described in the present circular.

Article 13
Insurance and liability

(1) Employees are responsible for ensuring that teleworking is permitted from their teleworking places and allowed by their home insurance. Any costs resulting from home insurance are borne by the employee.

(2) Without affecting the provisions on social security benefits for employees, the Office will not be liable to employees for any damage, material loss or injury suffered by them because of teleworking unless such damage, loss or injury was caused by equipment supplied by the Office.

(3) Employees hold the Office harmless with regard to any costs or compensation for any damage, material loss or injury suffered by any third party and attributable to teleworking unless such damage, loss or injury was caused by equipment supplied by the Office. This does not apply to any payments due:

(a) under any social security scheme of the Office
(b) otherwise under the Service Regulations, the Pension Scheme Regulations, the New Pension Scheme Regulations or other secondary law
(c) under any implementing regulations, guidelines or decisions relating to the Service Regulations, the Pension Scheme Regulations, the New Pension Scheme Regulations or other secondary law.

Article 14
Duty travel

(1) Duty travel is not considered to be teleworking but counts towards the minimum attendance under Article 4 if spent at an EPO site other than the employee's place of employment.

(2) Duty travel expenses are normally calculated on the basis of travel from the place of employment. By way of exception, the primary teleworking place may be taken into account for the purpose of calculating travel expenses for duty travel where this results in a lower total cost of travel.

Article 15
Working hours

(1) All provisions of the Guidelines on arrangements for working hours concerning core time are suspended.

(2) Paragraph 1 will not affect the line managers' discretion to set the times of meetings and events during working days.

Part IV
Entry into force

Article 16
Review and expiration

(1) The present circular will enter into force on 1 July 2024. It will be reviewed no later than three years after its entry into force.

(2) From the date of entry into force, the present circular will supersede the Guidelines for part-time home working at the EPO which entered into force on 15 May 2018.

(3) Should the implementation of the present circular conflict with any regulation governing the conditions of employment, the conflict is to be resolved having regard to the hierarchy of norms, reasonableness and the purpose of this circular.

Article 17
Transitional measure

The minimum attendance requirements under Article 4 of the present circular will apply only as of 1 January 2025. The minimum attendance requirements applicable under the pilot scheme will continue to apply until 31 December 2024.

Munich, 28 June 2024.

The President of the European Patent Office
António Campinos

ANNEX

Definitions

1. **Teleworking:** performance of work at a non-public location outside the EPO site of the place of employment.

2. **Place of employment:** the location of the Office site where the employee is assigned to, i.e. Munich (incl. Haar), Berlin, The Hague, Vienna or Brussels.

3. **Country of employment:** contracting state where the employee's place of employment is located, i.e. Germany, the Netherlands, Austria or Belgium.

4. **Primary teleworking place:** employee's residence in their country of employment under Article 25 ServRegs.

5. **Geographical scope for the purpose of Art 1(b) of this circular:** European territory, continental or island, of the EPC contracting states within the times zones UTC, UTC+1, UTC+2 and UTC+3. The Canary Islands, the Azores and Madeira are considered to be part of the geographical scope for the purposes of the present circular.

6. **Year:** one calendar year.

7. **Active working days within the meaning of Article 4(2)**: each working day during the normal working week, as defined in the Guidelines on arrangements for working hours, an employee performs their duties, regardless of the number of hours worked that day.

8. **Exceptional circumstances:** unforeseen circumstances that, amongst other things,

   (a) may require a different work assessment and planning to ensure business continuity and proper execution of the Office's tasks (Article 5(1))

   or

   (b) are considered to be, or may lead to, a collective health or safety crisis (e.g.pandemic) (Article 5(2)).

9. **Standard teleworking equipment:** equipment (e.g. IT devices or office furniture) necessary for teleworking at an employee's primary teleworking place in accordance with the Office's policies.

Circular No. 420

Implementing Article 25 of the Data Protection Rules (DPR)

Article 1 – Purpose

The purpose of this Circular is to clarify the concept of and requirements for the restrictions of the rights of data subjects set forth in Article 25 of the Implementing Rules for Articles 1b and 32a of the Service Regulations (DPR). It also lays down rules on the conditions and procedures under which the Office, when processing personal data for its administrative functioning, namely the processing operations necessary for the Office's management and functioning set out in Article 3, may restrict in accordance with Article 25 DPR the observance of the rights and obligations provided for in Articles 15 to 22, 34 and 35 DPR, as well as of Article 4 DPR in so far as its provisions correspond to the rights and obligations provided for in Articles 15 to 22 DPR.

Article 2 – Definitions

For the purposes of this Circular, the following definitions apply, in addition to the definitions in Article 3 DPR:

"Restriction of the rights of the data subject" means the act of temporarily limiting in an individual case, in accordance with Article 25 DPR and under the requirements for lawfulness set out therein, an existing right of the data subject in relation to processing of personal data by the Office in its administrative functioning. A restriction is an exception made in particular circumstances and under certain conditions to the general rule under the DPR allowing the exercise of rights of the data subject and imposing related obligations. A restriction may be applied when the controller enjoys discretion under the applicable legal provisions of the European Patent Organisation (EPO) as to whether or not to limit the rights of the data subject.

"Exemption to the applicability of the rights of the data subject" means a privilege conferred by a legal provision of the EPO that releases the controller from certain obligations under the DPR or allows the limitation of the rights of data subjects provided for in the DPR. In order to give rise to an exemption, the legal provision of the EPO must clearly identify the scope of the exemption's application and leave the controller no room for discretion as to whether or not the exemption must be applied, even if the practical implementation may vary depending on the circumstances. An exemption is permanent in the sense that it lasts for as long as the legal provision that provides for it is in force.

"Rights of the data subject" means the rights provided for in Articles 15 to 22, 34 and 35 DPR and in Article 4 DPR in so far as its provisions correspond to the rights and obligations provided for in Articles 15 to 22 DPR, as they apply in accordance with Article 25 DPR.

"Legal provisions of the EPO" means the European Patent Convention (EPC) or its constituent parts, international agreements and treaties such as the Patent Cooperation Treaty and any provisions applicable under them, in particular in relation to the procedure for granting European patents on the basis of Article 4(3) EPC and related procedures. They include the provisions governing the publication of patent applications, patents and related information, the constitution, maintenance and preservation of files, file inspection and exclusions from file inspection, communication with parties, correction and rectification, the exchange of information with patent offices and other authorities and disciplinary proceedings against professional representatives, and further legal arrangements made by the President of the Office, rules and instruments enacted by the Administrative Council, as well as circulars, communiqués and all other legal provisions adopted or issued by the President of the Office or by the President of the Boards of Appeal.

"Hard personal data" means objective data such as identification data, contact data, professional data, administrative details, data received from specific sources, electronic communications and traffic data.

"Soft personal data" means subjective data related to a data subject such as reasoning and opinions, behavioural data, performance and conduct data and data related to or brought forward in connection with the subject-matter of proceedings or an activity.

Article 3 – Field of application

(1) This Circular has the same field of application as provided for in Article 2 DPR. In particular, it applies to processing operations initiated and carried out by the Office throughout the procedures and activities listed in Article 4(1), including prior to commencing them and when monitoring their outcome. It also applies to co-operation, including assistance, between the Office and competent authorities of contracting states to the EPC and/or other competent authorities, for example of third countries or international organisations.

(2) Subject to the conditions set out in this Circular, the following rights of the data subject may be restricted: right to the provision of information to data subjects, right of access, right to rectification, right to erasure, right to restriction of processing, right to communication of a personal data breach to the data subjects and right to confidentiality of electronic communications.

(3) When it applies, the right to object under Article 23 DPR cannot be restricted. Data subjects always have the right to object to processing of their personal data under Article 5(a) DPR, i.e. processing necessary for the performance of a task carried out on the basis of legal provisions of the EPO or in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and functioning. However, while data subjects have the right to object, the controller examining the objection may nevertheless demonstrate that there are compelling legitimate grounds not to grant it.

(4) When processing data within the framework of its official activities and fulfilling its obligations as regards rights of data subjects under the DPR, the controller must first consider whether the legal provisions of the EPO provide for any exemption to the applicability of the rights of the data subject in the processing operation. If an exemption applies, the controller is not obliged to comply with the obligations laid down in the DPR as regards the rights of the data subject in question.

(5) When applying restrictions to the rights of the data subject, the controller and the delegated controller must be able to demonstrate compliance with the DPR and with the conditions and requirements laid down this Circular and justify the application of the restriction.

(6) This Circular applies to all categories of personal data, including both hard personal data and soft personal data.

Article 4 – Restrictions

(1) The Office may restrict the application of Articles 15 to 21, 34 and 35 DPR, as well as of Article 4 DPR in so far as its provisions correspond to the rights and obligations provided for in Articles 15 to 21 DPR:

(a) pursuant to Article 25(1)(b), (c), (d), (f), (g) and (h) DPR when conducting investigative processes under the Implementing Rules for Articles 21, 21a and 93(2) of the Service Regulations (ServRegs)
(b) pursuant to Article 25(1)(b), (c), (e), (f), (g) and (h) DPR when conducting disciplinary proceedings under Articles 93, 95, 95a and Chapter 3 ServRegs
(c) pursuant to Article 25(1)(a), (b), (c), (e), (f), (g) and (h) DPR when processing personal data in proceedings related to the prevention and management of grievances under the provisions of Title VIII (Settlement of Disputes) ServRegs and Articles 49, 50, 51 and 52 DPR or in connection with the establishment, exercise or defence of legal claims involving the EPO or its subordinate bodies, including arbitration, in order to preserve confidential information and documents obtained from the parties, interveners or other legitimate sources
(d) pursuant to Article 25(1)(h) DPR when processing health-related data in medical procedures and files
(e) pursuant to Article 25(1)(c), (g) and (h) DPR when conducting internal audits in relation to activities or organisational units of the Office
(f) pursuant to Article 25(1)(c), (g) and (h) DPR in investigations carried out by the Data Protection Officer under Article 43(2) DPR
(g) pursuant to Article 25(1)(a), (b), (c), (d), (g) and (h) DPR for the purposes of IT incident management and physical security incident reports, whether handled internally or with external involvement
(h) pursuant to Article 25(1)(c), (d), (g) and (h) DPR when providing or receiving assistance to or from competent public authorities, including from EPC contracting states and international organisations, or when co-operating with them on activities defined in relevant service

level agreements, memoranda of understanding and co-operation agreements, either at their request or on the Office's own initiative

(2) Restrictions of individual rights are lawful when they safeguard the important interests listed in Article 25(1) DPR. Data subjects' rights can be restricted only when those interests are at stake and when the restrictions aim at safeguarding such interests.

(3) Restrictions must always respect the essence of the right that is being restricted. This means that restrictions that are so extensive and intrusive that, in effect, they deprive a fundamental right of its basic substance and prevent the individual from exercising it cannot be justified. If the essence of the right is compromised, the restriction must already be considered unlawful and it is unnecessary to further assess whether it serves an objective of general interest and satisfies the necessity and proportionality criteria.

(4) A necessity and proportionality test must be carried out in each case before a restriction is applied. Restrictions must be limited to what is strictly necessary to achieve their objective. For accountability purposes, restrictions must be documented in an internal and confidential assessment note that analyses which rights are to be restricted, for how long, for what reasons and on which of the legal grounds listed in paragraph 1 and sets out the outcome of the necessity and proportionality test. This test will also be conducted when reviewing the application of a restriction.

(5) A restriction is in principle a temporary measure and, as such, must not restrict a right of the data subject indefinitely. Restrictions must be lifted as soon as the circumstances that justify them no longer apply and, in particular, where it is considered that an exercise of the restricted right would no longer cancel the effect of the restriction imposed or adversely affect the rights or freedoms of other data subjects.

(6) The Office may exchange personal data of data subjects with competent public authorities of EPC contracting states in accordance with Article 20 of the EPO Protocol on Privileges and Immunities and with public authorities of third countries or international organisations under public international law. Where the exchange of personal data is initiated by another authority or international organisation, no restriction will be applied by the Office. When processing personal data received from other public entities for the purposes of performing its tasks, the Office will consult those public entities on potential grounds for imposing restrictions and the necessity and proportionality of any such restrictions unless this would jeopardise its activities.

(7) The records of processing operations subject to restrictions and, where applicable, the documents setting out the factual and legal basis for those restrictions must be made available to the Data Protection Board upon request.

Article 5 – Specification of the controller, safeguards and storage periods

(1) Unless otherwise specified in the DPR, the President of the Office acts as the controller of the personal data processed by the Office and is free to delegate competence to determine the purposes and means of processing certain personal data to an organisational unit, represented by its head. Data subjects must be informed of the delegated controllers in the records and data protection notices published on the Office's intranet and/or website.

(2) The Office must implement safeguards to prevent abuse of, unlawful access to or transmission or transfer of personal data in respect of which restrictions apply or could be applied. Such safeguards include technical and organisational measures and must be detailed as necessary in circulars, guidelines, procedural documentation and administrative instructions of the Office. The measures must include:

(a) a clear definition of roles, responsibilities and procedural steps
(b) a secure electronic environment which prevents unlawful and accidental access to or transfer of electronic data to unauthorised persons
(c) secure storage and processing of paper-based documents
(d) due monitoring of restrictions and periodic review of their application

The reviews referred to in point (d) must be conducted at least once a year and at the closure of the procedure in question.

(3) Restrictions must be lifted as soon as the circumstances that justify them no longer apply.

(4) The storage period of the personal data processed in the procedures in which restrictions are applied must be no longer than specified in the records and data protection notices for the procedures and activities listed in Article 4(1). At the end of the storage period, the case-related information, including personal data, must be deleted, anonymised or stored in the Office's historical archives.

(5) When considering whether to apply a restriction, the Office must weigh up the potential risks to the rights and freedoms of the data subject against, in particular, the risks to the rights and freedoms of other data subjects and the risks of hindering the purpose and outcome of the processing operation. Risks to the rights and freedoms of the data subject primarily include, but are not limited to, reputational risks and risks to the right of defence and the right to be heard.

Article 6 – Involvement of the Data Protection Officer

(1) The delegated controller must inform the Data Protection Officer without undue delay whenever the delegated controller restricts the application of the rights of data subjects, lifts the restriction or revises the period of restriction in accordance with this Circular. The delegated controller will provide the Data Protection Officer with access to the internal and confidential

assessment note containing the assessment of the necessity and proportionality of the restriction and any documents concerning the factual or legal context, and document the date the Data Protection Officer is informed in the specific record.

(2) The Data Protection Officer may request the delegated controller in writing to review the application of a restriction. The delegated controller must inform the Data Protection Officer in writing of the outcome of the requested review.

(3) The involvement of the Data Protection Officer in the restriction procedure, including any exchanges of information, must be documented in an appropriate form.

Article 7 – Information for data subjects on restrictions of their rights

(1) The Office must publish on its intranet and/or its website records within the meaning of Article 32 DPR, data protection notices and/or privacy policies which inform all data subjects of the activities involving processing of their personal data and of their rights in relation to a given processing, including information on any potential restrictions of these rights. The information must cover which rights may be restricted, the grounds on which the restriction may be applied and the potential duration of the restriction.

(2) Where data subjects request to exercise their right of access, rectification, erasure and restriction of processing in relation to their personal data processed in the context of one or more specific cases or in a particular processing operation, the Office will limit its assessment of their request to the personal data concerned only.

(3) Where applicable, the delegated controller must inform data subjects individually, in writing and without undue delay of current or future restrictions of their rights. The delegated controller must also inform the data subjects of the principal reasons and the legal grounds on which the restrictions are based and the potential duration of the restrictions, of their right to consult the Data Protection Officer with a view to challenging the restriction and of their right to seek legal redress under Articles 49 and 50 DPR.

(4) In duly justified cases and under the conditions laid down in this Circular, the controller may restrict the provision of certain information where this is necessary and proportionate in the context of the procedures and activities listed in Article 4(1). In particular, the provision of information about the reasons for a restriction and the right to seek legal redress under Articles 49 and 50 DPR may be deferred, omitted or denied in accordance with Article 25(4) DPR if it would cancel the effect of the restriction.

(5) Where the delegated controller restricts, wholly or partly, the provision of information referred to in paragraph 3, it must document in the internal and confidential assessment note the reasons for the restriction, including a reasoned assessment of its necessity and proportionality, the legal grounds for it and its duration.

(6) A restriction referred to in paragraph 4 continues to apply for as long as the reasons justifying it remain applicable. An assessment of whether the reasons remain applicable must take place in every case. Once the reasons for the restriction no longer apply, the delegated controller must provide the data subject with the information.

(7) The delegated controller will review the application of the restriction at least once a year and at the closure of the procedure in question. Thereafter, the delegated controller will monitor the need to maintain any restriction on an annual basis.

(8) The provisions of this Article do not apply to the right of access to medical data and/or files, for which specific rules are explicitly laid down in Article 8 below.

Article 8 – Right of access to medical data and/or files

(1) Restrictions of the right of access of data subjects to their medical data and/or files are governed by the specific provisions of this Article.

(2) Subject to the following paragraphs of this Article, the Office may restrict a data subject's right to directly access their personal medical data and/or files of a psychological or psychiatric nature which are processed by the Office but only if access to those data is likely to adversely affect and pose an immediate danger to the life and health of the data subject or others. The restriction must be proportionate to what is strictly necessary to protect the data subject or others.

(3) Access to the data referred to in paragraph 2 must be given to a physician of the data subject’s choice.

(4) Where data subjects request to exercise their right of access to their personal medical data processed in the context of one or more specific cases or in a particular processing operation, the Office will limit its assessment of their request to the personal data concerned only.

(5) Where the Office restricts, wholly or partly, a data subject's right of direct access to personal medical data and/or files of a psychological or psychiatric nature, it must take the following steps:

(a) inform the data subject concerned, in its reply to the request, of the restriction applied and of the principal reasons for it and of their right to consult the Data Protection Officer and seek legal redress in accordance with Articles 49 and 50 DPR. The provision of this information may be deferred, omitted or denied in accordance with Article 25(4) DPR if it would cancel the effect of the restriction.

(b) document in the internal and confidential assessment note the reasons for the restriction, including a reasoned assessment of its necessity and proportionality which, in particular, evaluates how exercising the right of access would adversely

affect and pose an immediate danger to the life and health of the data subject or others, and the potential duration of the restriction.

(6) Any restriction referred to in this Article will continue to apply for as long as the reasons justifying it remain applicable. Once the reasons for the restriction no longer apply, upon a request of the data subject, the delegated controller will review the need to maintain the restriction.

Article 9 – Communication of a personal data breach to the data subject

(1) Where the Office is under an obligation to communicate a data breach under Article 34(6) DPR, it may, in exceptional circumstances, restrict such communication wholly or partly. However, the right to this communication must not be restricted in procedures for dealing with harassment.

(2) The delegated controller must draw up a note documenting the reasons for the restriction, the legal ground for it under Article 4(1) and an assessment of its necessity and proportionality. This note must be communicated to the Data Protection Officer when the personal data breach is notified. (3) Once the reasons for the restriction no longer apply, the Office must communicate the personal data breach to the data subjects concerned and inform them of the principal reasons for the restriction and of their right to consult the Data Protection Officer and seek legal redress in accordance with Articles 49 and 50 DPR.

Article 10 – Confidentiality of electronic communications

(1) In exceptional circumstances, the Office may restrict the right to confidentiality of electronic communications under Article 35 DPR. Such restrictions must comply with the Guidelines on Electronic Communications.

(2) Where the Office restricts the right to confidentiality of electronic communications, it must inform the data subject concerned, in its reply to any request from that data subject, of the principal reasons for applying the restriction and of the right to seek legal redress in accordance with Article 49 and Article 50 DPR.

(3) The Office may defer, omit or deny the provision of information about the reasons for a restriction and about the right to consult the Data Protection Officer and seek legal redress in accordance with Articles 49 and 50 DPR for as long as such provision would cancel the effect of the restriction. An assessment of whether deferring, omitting or denying the provision of information is justified must take place in every case.

Article 11 – Entry into force

This Circular shall enter into force on 1 January 2022.

Munich, 16 December 2021.

The President of the European Patent Office
António Campinos

Circular No. 421
(16 December 2022)

EPO video surveillance policy

Article 1 – Introduction

(1) The exponential growth of technologies in which personal data is processed, including video surveillance systems, has raised concerns over the fundamental rights and freedoms of data subjects, especially since the introduction of intelligent video analysis tools as part of them. Despite the genuine safety and security purposes that these systems intend to serve, the impact that they have on privacy and data subject rights deserves special attention.

(2) The use of video surveillance in accordance with the video surveillance policy set out here (hereinafter "this policy") is part of the Physical Security Guidelines (Circular No. 381). This policy is intended to provide the framework and guiding principles according to which the video surveillance system (hereinafter "VSS") at the EPO is designed, deployed and used. It describes the VSS and the safeguards put in place by the EPO to ensure the protection of personal data, privacy and other fundamental rights and legitimate interests of individuals affected by the VSS and to ensure that the VSS is in continuous compliance with the legal framework applicable to the protection of personal data at the EPO, as enshrined in particular in Articles 1b and 32a of the Service Regulations and related rules.

(3) This policy will be subject to review by the EPO department operating the VSS under the responsibility of the delegated controller every two years, with the first review being carried out by the end of 2024. During the reviews the EPO will examine the need for the VSS, whether it continues to serve its defined purpose, its scope and the existing alternatives. The review will take into account legislative developments to ensure this policy continues to comply with the applicable legislative framework. Copies of the periodic review reports will be available on the EPO intranet and/or website.

(4) With the introduction of new Data Protection Rules (hereinafter "DPR") and this policy, the EPO is aligning itself with the highest international standards and the best practices followed in other international organisations and at EU institutions, bodies and agencies in the light of the recommendations of the European Data Protection Supervisor and the European Data Protection Board.

Article 2 – Field of application

This policy applies to all natural persons (hereinafter "data subjects") who, from the moment they are in the direct vicinity of or enter EPO premises, can be identified, either directly or indirectly, and whose personal data is processed by the VSS. This includes the cameras used for automatic number plate recognition (hereinafter "ANPR") that are deployed at some EPO car park entrances to

authorise staff and visitor vehicles to enter and make use of the EPO parking facilities.

Article 3 – Principles

In line with the EPO data protection framework, this policy is based on the following key principles.

(a) Lawfulness, fairness and transparency

The use of the VSS is necessary for the correct management and functioning of the EPO. The use of the VSS is lawful in accordance with Article 5(a) and Article 5(e) DPR. In addition, it finds a legal basis in Circular No. 381, which requires the EPO to implement the security principles defined therein and specifies which areas may be covered by video surveillance (Article 7) to protect the EPO's staff, third parties on the EPO's premises and the assets of the European Patent Organisation.

Pursuant to Article 20 of the Protocol on Privileges and Immunities of the European Patent Organisation, the Organisation has the duty to co-operate with the competent authorities of the contracting states, including to ensure the observance of police regulations, which includes security matters. This policy does not detract from this duty.

Personal data can also be considered lawfully processed when it is used to protect the vital interests of data subjects or of another natural person.

Information on the existence of the VSS will be made available to the public. This information will be provided in a layered approach by means of signs and the publication of this policy.

(b) Purpose limitation

The purposes of the processing operations are to be able to address security and operational safety concerns efficiently, verify identities and control access to EPO buildings and information processing facilities (e.g. EPO data centre).

Personal data which is not relevant or necessary to achieve the intended purposes is not collected.

The processing of personal data for other purposes is still possible, provided those purposes are compatible with the primary ones. In such cases, and prior to the processing operation, the delegated controller will perform a compatibility assessment to determine the degree of compatibility of the processing operation. The outcome of the assessment will determine whether the additional purposes are explicitly or implicitly covered and provide the necessary guidance to determine whether the processing is fair and can take place.

The system is used to monitor the perimeter of our buildings and access to the buildings and to areas where sensitive information is processed or stored, thus enhancing the protection of intellectual property and sensitive information.

In the event of incidents such as intrusion, theft or evacuation, the system is also used to support the operational safety activities of the external security contractor responsible for executing the associated processes.

The delegated controller ensures that personal data is processed for the specified, explicit and legitimate purposes for which it was collected (purpose specification), preventing any further processing that may be incompatible with those purposes (compatible use). If the data is processed for several purposes, each of them is explicitly mentioned.

(c) Data minimisation

The VSS is designed to capture only personal data that is adequate, relevant and limited to the intended purposes.

If surveillance cameras or other auxiliary items are equipped with sound-receiving or sound-transmitting devices, these are disabled or turned off. This does not apply to intercom cameras where the sound device is used to facilitate communication with the data subject, but in these cases the sound transmitted or received is not recorded. Similarly, the selection of technical solutions is limited to systems that provide only the functionalities needed, and any functions not required are deactivated.

When selecting technical solutions, the delegated controller will first consider privacy-friendly systems that would allow the scrambling or masking of areas that are not relevant for the intended surveillance purposes, or those that entail privacy concerns.

The VSS processes the following personal data:

- name, surname and staff number of users who access the software applications used to monitor video surveillance cameras
- images of staff, visitors and contractors and their vehicles who access EPO premises, including the images' date and time stamp
- images of staff, visitors and contractors who access or leave the different EPO security zones or are in the high-security or core utilities zones
- number plates of staff and visitors who access EPO parking facilities
- metadata from the images captured by the system (e.g. motion, direction, time, speed).

Metadata embedded in the images is used to identify security breaches such as abandoned items and movements that are suspicious, in unusual directions or erratic, and so to trigger alarms. It optimises use of the system by reducing the time security officers need to spend looking at the images. Metadata also enables faster searches in stored images without the need to spend large amounts of time.

The VSS does not:

- collect any special categories of personal of data
- make use of biometric data
- record conversations
- record images of persons in areas subject to heightened expectations of privacy.

The delegated controller will consult the Data Protection Officer (hereinafter "DPO") about any changes to the categories of personal data collected or the areas monitored by the VSS before those changes are implemented.

Areas under surveillance

The EPO has established a security-zoning model in which areas have been delimited based on the security risks that they face and the safety processes that they support. In this model there are five distinct security zones, ranging from the lowest-security level or zone zero, which comprises publicly accessible spaces, to the highest-security level or zone four, where confidential data is processed or stored. The deployment of video surveillance cameras in these zones is based on regular risk assessments by the EPO which are detailed in the record of processing activities for the VSS.

The brand, type, function, location and purpose of each video surveillance camera are included in a confidential document and can be consulted by the DPO and the delegated controller.

ANPR cameras are also deployed and serve as means to facilitate access for staff and their vehicles to the parking areas located on EPO premises.

Areas subject to heightened expectations of privacy, such as offices, leisure areas, canteens, bars, cafeterias, toilets, showers and changing rooms, are not monitored.

A data protection impact analysis is conducted in all cases where the processing operation is likely to result in a high risk to the rights and freedoms of data subjects.

(d) Accuracy

The delegated controller ensures that personal data is accurate and kept up to date, making sure any inaccurate data is erased or rectified without delay, having regard to the purposes for which it is processed.

To apply this principle, the delegated controller puts in place the necessary standard operating procedures (SOPs), which can be consulted by the DPO. The SOPs define the steps taken to ensure that personal data processed or stored in the VSS is regularly checked, ensuring the data collected is up to date and accurate. The SOPs also define the process followed to correct any outdated or inaccurate data whenever found by the delegated controller or reported by the data subject (Article 19 DPR: right to rectification; and Article 20 DPR: right to erasure).

The VSS is connected to the EPO time server, which synchronises the access control and security management system logs, making sure that all events recorded by either are accurately reported.

(e) Storage limitation

Personal data is deleted as soon as it is no longer needed for the purposes for which it was collected.

Considering the lawful basis and purposes established for processing personal data using the VSS, the maximum retention period for images captured is set at seven days[1], after which the images are automatically erased. This retention period can be extended for backups of images related to identified incidents where the footage becomes part of the evidence to support investigations, appeals, litigation or claims. It can be extended until the investigations, appeals, litigation or claims are resolved.

(f) Integrity and confidentiality

The delegated controller ensures that all appropriate technical and organisational measures to maintain the security and confidentiality of personal data are in place, including protection against accidental loss, harm, destruction, damage or dissemination. The security measures are analysed and regularly reviewed and adapted on a case-by-case basis.

Under point 6.9 of the General Conditions of Contract and, where applicable, the conditions agreed in the data processing agreements signed with the companies, all contractors processing personal data ensure that it is processed in accordance with the applicable laws and regulations, in particular with the DPR. Internal staff too are bound by the DPR.

The delegated controller is responsible for implementation of the necessary technical and organisational measures that guarantee the integrity and confidentiality of the personal data processed or stored in the VSS. These measures are proportionate to the risk of destruction, alteration, unauthorised access or disclosure that the VSS entails to the rights and freedoms of the data subjects impacted.

Protection measures

Personal data processed or stored in the VSS is protected in a way that allows the segregation of functions and limits access to personal data based on roles and functions.

As far as technically possible, the delegated controller implements the applicable ISO 27001 controls, especially those established for mobile devices and teleworking, human resource security, asset management, media handling, access control, cryptography, secure areas and equipment security.

1 The retention periods of other categories of data are indicated in the VSS record of processing activities.

Regular internal checks (vulnerability tests) are performed to verify the integrity, confidentiality and availability of the system and its components, as well as the level of compliance with the controls mentioned above.

Access to the VSS application requires authentication via Business Information Technology tools (password/active directory) plus an additional password for the application[1].

All images recorded are encrypted. All personal data is stored in secure IT applications in accordance with EPO security standards. These include:

- user authentication: all workstations and servers require the standard login, mobile devices require login to the EPO enclave, privileged accounts require additional, stronger authentication
- access control (e.g. role-based access control to the systems and network, principles of need to know and least privilege): separation into administrator and user roles, users have minimum privileges, reduction of overall administrator roles to a minimum
- security hardening of systems, equipment and network: 802.1x for network access, encryption of endpoint devices, antivirus on all devices
- physical protection: EPO access controls, additional access controls to data centre, policies to lock offices
- transmission and input controls (e.g. audit logging, system and network monitoring): security monitoring with specialised software that analyses machine-generated data to detect threats
- security incident response: 24/7 monitoring for incidents, on-call security expert.

Access to personal data

A limited number of persons with a need to know and who are regularly trained in data protection are granted permission to access personal data or the systems in which it is processed or stored. The list of persons who have access is contained in the confidential document "List of persons who have access to the VSS with their access rights".

Each individual's access is based on their role and responsibilities and is always limited in time and purpose to the minimum needed to perform their specific duties (e.g. security, maintenance, system administration).

Security personnel in charge of protecting EPO buildings are granted access to the last 60 minutes of recordings. The purpose of this access is the processing of alarms and support for emergencies during that limited time frame.

The list of individuals with access to personal data or systems in which it is processed or stored is regularly reviewed and updated. Procedures for granting, changing and revoking access are readily available.

1 Implemented in The Hague and to be gradually applied to the other EPO sites in the near future.

Access to personal data stored in the system (e.g. to evaluate an incident) requires the prior approval of the delegated controller, who may consult the DPO. All details regarding access to personal data are recorded in the document: "Access to personal data logs".

Disclosure of personal data

Personal data processed or stored in the VSS is used only internally by the EPO department operating the VSS and staff of its external security contractor to assist them in the performance of their duties.

Other persons have the right to access their personal data on request to the delegated controller who may consult the DPO for advice.

In the event of highly unsafe driving behaviour, the delegated controller can provide access to the video footage of the incident to the EPO safety experts for their analysis and expert advice, consulting the DPO for advice if necessary.

In the case of accidents or incidents that entail insurance claims, the delegated controller can also provide access to the relevant video footage to the company processing the claim, provided all the relevant DPR provisions for such disclosure are respected.

The delegated controller maintains an accurate register documenting disclosure, including its legal basis, date and time, the type of personal data disclosed and the recipients.

Article 4 – Individual rights
Right to be informed

(1) Individuals have the right to obtain confirmation from the controller as to whether or not their personal data is being processed. Data subjects will receive information in accordance with Article 16 DPR. Information on the presence of the VSS will be made available to the public. This information will be provided in a layered approach as follows.

(2) The first information layer consists of information signage. The signs, of an appropriate size depending on their location, will be clearly visible and readable. They will provide the details of the delegated controller, the purpose of the processing operations and contact information. They will also indicate where to find any relevant additional information, such as data subject rights. This will be achieved with either a link or a QR code to a location where data subjects can easily find the information.

(3) The second layer is this policy, accessible at the links given on the warning signs and readily available in hard copy in the reception areas of EPO buildings.

(4) It is not necessary to make camera positions public, as long as it is easy for data subjects to recognise that they are entering areas being monitored.

Other data subject rights

(1) Individuals recorded by the VSS have the right to access the footage, and the right to rectification, the right to object, the right to erasure and the right to the restriction of processing.

(2) Data subjects can exercise any of the above-mentioned rights by sending a written request to the delegated controller, who will respond within a month of the date of receipt of the request.

(3) The delegated controller will process requests related to access to and provision, erasure, correction, rectification or completion of personal data without undue delay and no later than a month from receipt of the request.

(4) The delegated controller can refuse to provide the information if it can be proven that the request is manifestly unfounded or excessive.

Article 5 – Training

(1) The DPO will promote regular data protection training programmes and raise awareness among EPO staff involved in processing operations. The contract managers of contractors involved in the processing operations will ensure that the contractor's staff are adequately trained to comply with this policy.

(2) The training, which is compulsory for all staff given access to live or recorded personal data, will include as a minimum the risks that the processing operations entail for personal data, with special reference to the precautions taken if personal data from special categories is processed. The following points will be covered:

- the EPO policy for recording and retaining information
- how to handle the information securely
- what to do if a request for information is received, for example from the police
- how to recognise a data subject request and what to do if one is received

Article 6 – Documents to be maintained by the delegated controller (confidential)

- Map with the locations of all video surveillance cameras
- Vulnerability test with results and action list plus status of completion
- Data protection impact analysis
- Data protection training logs
- Access to personal data logs
- List of persons who have access to the VSS with their access rights
- Standard operating procedure (SOP) for granting, changing and revoking physical and logical access

- SOP for verifying the accuracy of personal data processed or stored
- Contract with security providers
- EPO security model, including security zones

Article 7 – Contact details

Individuals can address queries to the EPO's delegated controller at the following email address: dpl.pd44@epo.org.

You may consult the DPO at the following email address: dpo@epo.org.

Munich, 16 december 2022.

The President of the European Patent Office
António Campinos

Circular No. 422
(1 July 2022)

Guidelines for external professional mobility: secondment and leave on personal grounds

This circular sets out the specifications for external professional mobility, in particular while on secondment or on leave on personal grounds. This document serves as a guide for:

- the EPO, and host organisations in the case of secondment, to clarify the procedure and facilitate the organisation of either form of external professional mobility,
- Office employees exercising either form of external professional mobility to offer clarity on working conditions.

Part I – Secondment (Article 45 of the Service Regulations)

Article 1 – Secondment agreement and conditions for secondment

(1) Before a secondment takes place, the Office, the host organisation and the seconded employee will sign a written agreement on the nature as well as terms and conditions of the secondment.

(2) The secondment agreement will set out the balance of responsibilities between the host organisation and the Office and govern the degree to which the rules of the respective organisation will apply to the working conditions of the seconded employee during the secondment period.

(3) The secondment agreement will detail the place of work during the secondment and include a job description setting out the tasks and functions to be performed by the seconded employee at the host organisation during the secondment period.

Article 2 – Conflict of interests

(1) An employee on secondment remains bound by the obligations under the Service Regulations (hereinafter referred to as the "ServRegs") in relation to their functions and duties towards the Office.

(2) To the extent compatible with their duties and obligations towards the Office and to the extent agreed upon in the secondment agreement, the seconded employee will comply with the internal rules of the host organisation. Any breach of such rules reported to the Office by the host organisation may lead to termination of the secondment.

(3) In the case of conflict between obligations arising from employment with the Office and obligations imposed by the host organisation, the former will prevail.

Article 3 – Maintenance of links with the Office

(1) The employee on secondment and their line manager have a shared responsibility to keep in close and regular contact, via email or phone. Direct meetings (face to face, by videoconference or by telephone) will take place at least once every three months. These meetings are also intended as an opportunity for the seconded employee to give feedback on the secondment.

(2) In the case of a secondment lasting more than one year, the employee on secondment will submit an annual activity report.

Article 4 – Relocation

(1) In accordance with Article 45(2)(d) ServRegs and where applicable, the seconded employee will be eligible for the following additional compensation:

   (a) The installation allowance as provided for in Article 73 ServRegs. This payment will be made by the Office only upon the beginning of the secondment;
   (b) Reimbursement of travel expenses when taking up appointment as provided for in Article 80 ServRegs;
   (c) Lump sum compensation for expenses actually incurred for the removal of household and personal effects in accordance with Article 81(1)(b) ServRegs.

(2) A seconded employee must continue to meet the conditions specified in Article 72(1)(a) ServRegs to remain entitled to an expatriation allowance during the secondment period.

Article 5 – Duration

(1) The starting date and the duration of the secondment will be defined with a view to delivering optimum value to the Office, the host organisation and the seconded employee.

(2) The secondment will be without prejudice to the right of the Office to call upon the seconded employee for temporary assistance during their secondment if necessary and in the interest of the service.

(3) In the case of extended sick leave or incapacity, the Office may terminate the secondment before its scheduled expiry date.

Article 6 – Working time and public holidays

(1) The full-time working hours at the host organisation will apply to the seconded employee. During the secondment, the public holidays observed by the host organisation will apply instead of those observed at the seconded employee's place of employment. Further provisions as to working time and conditions may be included in the secondment agreement.

(2) In principle, a seconded employee will work full time. In exceptional cases, an employee who has been authorised to work part-time at the Office may

continue to work part-time during the secondment upon agreement by the host organisation.

(3) Office closure days established by the President in accordance with Rule 4(b) of Circular No. 22 do not apply to employees on secondment.

Article 7 – Leave and absences

(1) Leave entitlements as provided for in the Service Regulations will continue to apply to employees on secondment. The employee on secondment will take leave days in agreement with the host organisation and report them to the Office under the conditions defined in the secondment agreement.

(2) The employee on secondment will notify the host organisation, under the conditions defined in the secondment agreement, of any absence for health reasons. The employee on secondment will also comply with the health and safety instructions applicable at the host organisation.

Article 8 – Performance appraisal and career progression

(1) During the secondment period, the seconded employee's performance will be assessed by the last reporting officer they had before the start of the secondment. The performance appraisal rules in force at the Office will be applied to the extent possible with due regard to the specificities of the secondment.

(2) Goal setting for each appraisal period will be informed by the job description for the secondment period, the information received from the host organisation on the seconded employee's performance and discussions held between the reporting officer and the seconded employee.

(3) The reporting officer will request input from the host organisation on the seconded employee's performance and take it into account when drafting the appraisal report.

(4) During the secondment period, the seconded employee will continue to be considered for pensionable and non-pensionable rewards on the basis of their performance as well as other elements such as collaborative behaviour, professional development and achievement of goals in ongoing projects between the Office and the host organisation. These elements will be informed by the input supplied by the host organisation.

Article 9 – Vacancy of post

Without prejudice to Article 45(2)(e) ServRegs, a post which is unoccupied following the incumbent's departure on secondment for a period exceeding six months is considered vacant from the first day of the secondment period.

Part II – Leave on personal grounds (Article 44 of the Service Regulations)

Article 10 – Conditions for granting leave on personal grounds

(1) Leave on personal grounds may be granted at the request of the employee concerned. The employee must submit the request to their line manager at least two months before the requested starting date unless otherwise agreed by the line manager. The minimum notification period, however, may not be less than one month.

(2) The decision on granting leave is taken after consulting the employee's line management, having examined the request in detail and taken into account all relevant factors, in particular the reason for the leave, its foreseen duration and the interests of the service.

(3) The employee will be notified of their precise obligations when the decision is taken to grant or extend leave on personal grounds.

Article 11 – Professional activity and conflict of interest

(1) An employee who, during leave on personal grounds, envisages engaging in a professional activity or changing from the professional activity already authorised, must inform the Office accordingly.

(2) In particular, an employee may not engage in an activity, whether gainful or not, which could lead to a conflict with the interests of the Organisation.

(3) The employee must ensure that the activity is permitted by local law at the place where the activity occurs.

Article 12 – Maintenance of links with the Office

(1) During leave on personal grounds, the employee will submit any request (e.g. for extension of leave or for approval of engagement in a professional activity) in writing to the relevant human resources department.

(2) The employee will provide the Office with their contact details for the period of leave on personal grounds and keep this information updated at all times.

Article 13 – Duration

(1) The duration of leave on personal grounds will be no less than 14 consecutive calendar days. Without prejudice to paragraph 2, the duration of the leave is restricted to one year, extendable several times for one year.

(2) The period of leave on personal grounds granted to an employee elected or appointed to public office will be equal to the duration of the term of office.

(3) In no case may the total duration of leave on personal grounds exceed ten years over the course of an employee's entire career at the Office.

Article 14 – Right of return and vacancy of post

(1) Without prejudice to Article 44(5)(c) ServRegs, an employee is entitled to be reinstated to their post when the period of leave on personal grounds granted to them does not exceed six months.

(2) The period under paragraph 1 is extended to twelve months where an employee is granted leave on personal grounds to join another national or international public body to enable them to see out their probationary period.

(3) A post which is unoccupied following departure on leave on personal grounds for a period exceeding six months is considered vacant from the first day of that leave on personal grounds. Exceptionally, a post is considered vacant only from the date a probationary period is completed to allow employees to see out their probationary period under paragraph 2 above.

Article 15 – Reinstatement to the Office

(1) If the employee does not file a request for extension at the latest two months before the expiry of the current period of leave, the Office will take all necessary steps for their reinstatement to the Office.

(2) Without prejudice to Article 14, reinstatement is performed in due consideration of the employee's abilities, which are assessed on the basis of the available information, including details of any professional activity engaged in and new knowledge acquired while on leave.

(3) Prior to their reinstatement to the Office, an employee who has been on leave on personal grounds will inform the Office in accordance with Article 17 ServRegs of any personal interest, in particular a family or a financial interest, or representation of any other interests of third parties which could actually or potentially impair their independence in carrying out their duties in the specific post offered by the Office.

Article 16 – Final provisions

(1) This circular enters into force on 1 July 2022.

(2) The present provisions relating to leave on personal grounds supersede Rule 1 of Circular No. 22 from the date of entry into force of this circular.

Munich, 1 July 2022

The President of the European Patent Office
António Campinos

Circular No. 423
(1 July 2022, 16 October 2023)

Guidelines for applying the conditions of employment for young professionals

This circular provides further specifications on the conditions of employment for young professionals to ensure that the best candidates are recruited to the programme as well as to enable its efficient administration.

Article 1 – Minimum qualifications for recruitment

(1) Minimum qualifications for recruitment of young professionals in the first year of the programme

(a) National of one of the EPO's member states.
(b) Diploma of completed university studies at bachelor's level or equivalent.
(c) Excellent knowledge of one official language.

(2) Minimum qualifications for recruitment of young professionals in the second year of the programme

Same criteria as specified under Article 1(1) above, with the following additional requirement:

- Knowledge of a further official language at CEFR level A2 no later than by the start date of the extension of their appointment.

Article 2 – Guidelines on performance development

(1) The performance development of young professionals follows the principles set out in Circulars Nos.365 and 366.

(2) An appraisal report will generally be drawn up for the period from 1 January until 31 December of a given year. Each young professional will have one report per year that will cover their performance over the whole year, even in the event of a change of tasks or tutor or line manager in the course of the year or secondment.

(3) Each young professional will be assigned a tutor who will act as supervisor, trainer and coach and will be responsible for facilitating their acquisition of knowledge. The tutor will ensure that there is continuous dialogue with the young professional and provide constructive feedback with a focus on learning and development.

(4) A young professional's reporting officer will be their line manager in the department to which they are allocated. In the event that a young professional's tutor is not their reporting officer, the reporting officer must seek input from the tutor and make sure that it is reflected in the appraisal report.

Article 3 – New ways of working

Young professionals will be eligible to telework under the terms and conditions laid down by the President. Young professionals may be provided with further instructions from their tutor or line manager regarding the exact working conditions to be applied during teleworking.

Article 4 – Secondment

Pursuant to Article 9 of the Conditions of employment for young professionals at the EPO, young professionals selected to continue the programme beyond the first year will be eligible for secondment.

Young professionals on secondment will receive a monthly payment amounting to 15% of the Office's daily subsistence allowance for the place of secondment, multiplied by 30.

In addition, they will receive compensation in the form of a lump sum for the outward and return journey between the place of employment and the place of secondment. This lump sum will amount to a flat rate of EUR 350, payable once. The amount of the lump sum will be subject to regular review in consideration of price fluctuations.

Article 5 – Entry into force

This circular enters into force on 16 October 2023. It replaces the former Circular No. 423 in force until 15 October 2023.

Munich, 16 October 2023

The President of the European Patent Office
António Campinos

Circular No. 429
(5 October 2023)

Death insurance (Article 84 ServRegs) Review for the period 2020-2022 and provisional rates for 2023-2025

According to the requirements set out in the Implementing Rules for Articles 83a, 84 and 84a of the Service Regulations, the three-yearly review of the death insurance for the period 2020 - 2022 has now been carried out. The calculation of the balance of contributions paid as compared to capital payments made has been finalised. This has resulted in final contribution rates for 2020-2022 below, which lead to a slight additional contribution from staff, as well as from the Office.

Final contribution rates based on the entire period January 2020 to December 2022

Contribution rate (as % of basic salary)	**Staff contribution rate**	**Office contribution rate**
DEATH INSURANCE	**0.1031%**	**0.2062%**

The contribution rates for young professional staff equal 36.36% of the staff contribution rate.

This final adjustment will be settled together with the salary or pension payment for October 2023. For staff the total deducted will be around 0.1% of one monthly basic salary.

The provisional rates applicable from 1 January 2023 for staff remain unchanged at 0.1% of basic salaries and pensions and 0.2% for the Office.

Munich, 05.10.2023.

The President of the European Patent Office
António Campinos

Circular No. 430
(15 December 2023)

Contribution rates to the Salary Savings Plan

At its 115th meeting in October 2008, the Administrative Council adopted the Salary Savings Plan (SSP), entering the Office on or after 1 January 2009 (CA/D 13/08).

As stated in section I.B. paragraph 1 of the Implementing Rule to Article 65(3) of the Service Regulations, the contribution rate to the SSP will be established by the President of the Office on the basis of an actuarial study, after consultation with the General Consultative Committee.

The **Salary Savings Plan** total compulsory contribution (Office and staff) is the sum of **3.6%** of the employee's basic salary, up to a ceiling of twice the salary for grade G1, step 4, and **32.1%** of the part of basic salary exceeding that ceiling.

Contributions to the Salary Savings Plan by the Office and staff are apportioned 2/3rds and 1/3rd respectively.

This circular enters into force on 1 January 2024.

Munich, 15 December 2023.

The President of the European Patent Office
António Campinos

Circular No. 431
(21 October 2024)

Public holidays 2025

1. In accordance with Article 59(2)(b) of the Service Regulations, the following public holidays will be observed in 2025 in each place of employment:

Munich		
Wednesday	1 January	(New Year's Day)
Monday	6 January	(Epiphany)
Friday	18 April	(Good Friday)
Monday	21 April	(Easter Monday)
Thursday	1 May	(Labour Day)
Thursday	29 May	(Ascension Day)
Monday	9 June	(Whit Monday)
Thursday	19 June	(Corpus Christi)
Friday	15 August	(Assumption Day)
Friday	3 October	(Day of German Unity)
Wednesday	24 December	(Christmas Eve)
Thursday	25 December	(Christmas Day)
Friday	26 December	(Boxing Day)
Wednesday	31 December	(New Year's Eve)

The Hague		
Wednesday	1 January	(New Year's Day)
Friday	18 April	(Good Friday)
Monday	21 April	(Easter Monday)
Monday	5 May	(Liberation Day)
Thursday	29 May	(Ascension Day)
Monday	9 June	(Whit Monday)
Wednesday	24 December	(Christmas Eve)
Thursday	25 December	(Christmas Day)
Friday	26 December	(Boxing Day)
Wednesday	31 December	(New Year's Eve)

Berlin		
Wednesday	1 January	(New Year's Day)
Friday	18 April	(Good Friday)
Monday	21 April	(Easter Monday)
Thursday	1 May	(Labour Day)
Thursday	29 May	(Ascension Day)
Monday	9 June	(Whit Monday)
Friday	3 October	(Day of German Unity)
Wednesday	24 December	(Christmas Eve)
Thursday	25 December	(Christmas Day)
Friday	26 December	(Boxing Day)
Wednesday	31 December	(New Year's Eve)

Vienna		
Wednesday	1 January	(New Year's Day)
Monday	6 January	(Epiphany)
Monday	21 April	(Easter Monday)
Thursday	1 May	(Labour Day)
Thursday	29 May	(Ascension Day)
Monday	9 June	(Whit Monday)
Thursday	19 June	(Corpus Christi)
Friday	15 August	(Assumption Day)
Monday	8 December	(Immaculate Conception)
Wednesday	24 December	(Christmas Eve)
Thursday	25 December	(Christmas Day)
Friday	26 December	(Boxing Day)
Wednesday	31 December	(New Year's Eve)

2. In addition to these days, the President has allowed four further days in The Hague, three further days in Berlin and one further day in Vienna. These days can be taken as desired by the employee and will be added automatically to the annual leave for 2025. The provisions of Article 56(5) ServRegs shall apply by analogy and the additional days shall be curtailed in proportion with respect to employees working part-time.

3. The number of public holidays in Munich (including any additional days) also applies to staff working in Brussels. To better address the local circumstances and business needs in Brussels, the following public holidays

from the Munich list: Epiphany on 6 January, Corpus Christi on 19 June, and the Day of German Unity on 3 October, will be replaced by Friday 30 May (the day after Ascension Day), the Anniversary of the Declaration by President Schuman in 1950 on 9 May and the Belgian National Holiday on 21 July.

4. In accordance with the Office's closure policy, it is decided to close the Office on 29 and 30 December 2025. Staff shall decide at their discretion which type of authorised leave to take on these two compulsory closure days.

Munich, 21.10.2024

The President of the European Patent Office
António Campinos

Circular No. 432
(19 December 2024)

Defining and declaring spouse income information

Introduction and scope

According to Articles 68, 83a and 83b of the Service Regulations, Implementing Rules for Articles 83a, 84 and 84a, Implementing Rules for Articles 83b and Circulars Nos. 266 and 425, entitlement to the household allowance and the level of contributions to healthcare and long-term care insurance for spouses may vary depending on the spouse's income. According to Article 14a (6) of the Service Regulations, employees have an obligation to provide the Office and third parties administrating emoluments and benefits with truthful and complete information relevant to their allowances and benefits.

This circular defines how the income of an employee's spouse is determined when the spouse is gainfully employed outside the Office. This definition is used to determine the entitlement to the household allowance and the level of contributions to healthcare and long-term care insurance for spouses. The term "gainfully employed" covers gainfully employed or gainfully self-employed spouses.

This circular applies to all persons covered by Article 1 of the Service Regulations, including former employees of the Office.

Article 1
Declaration of spouse income

(1) Employees must provide an information of their spouse's annual income for the previous calendar year along with supporting documentation (e.g. annual income statement, annual tax declaration or any other relevant record). Employees must provide these as soon as they are available to them, and at the latest by 30 June of the reference calendar year (if the spouse is already registered) or when registering a spouse.

(2) For the purpose of this circular, the spouse's annual income is determined as follows:

   (i) Annual gross income includes salary, holiday allowance and regular recurring annual supplements, but excludes variable elements such as bonuses, one-off payments from incentive schemes, overtime and shift allowances.

   (ii) Annual net income is the gross income after contributions to compulsory social security schemes and national income tax have been deducted. Business-related costs are deducted when determining the self-employed spouse's annual income.

(3) The type of income to declare varies:

(i) Healthcare and long-term care insurance contributions require a declaration on the spouse's annual gross income.

(ii) The household allowance requires a declaration on the spouse's annual net income where an employee has no dependants within the meaning of Article 69 of the Service Regulations.

Article 2
Provisional contributions and benefits based on income for previous calendar year

(1) The provisional contributions and benefits of employee's spouses for a reference calendar year are defined on the basis of their average monthly gross and/or net income for the previous calendar year.

(2) The average monthly income is calculated by dividing the spouse's annual income for the previous calendar year by twelve months, using the gross income in the case of healthcare and long term care insurance, and the net income in the case of household allowance.

Article 3
Significant changes to spouse income in the course of the reference calendar year

(1) As an exception to Article 2, paragraph 1, and at the employee's request, provisional contributions and benefits can be adjusted if there is a significant change to the level of the spouse's income in the course of the reference calendar year.

(2) The employee must provide documentation evidencing such a change (e.g. monthly payslips, a resignation letter or a retirement notice).

Article 4
Final settlement of provisional contributions and benefits for the following calendar year

(1) After production of the documents mentioned in Article 1, paragraph 1, the final contributions and benefits will be calculated based on the final monthly average income for the reference calendar year. These final contributions and benefits will be compared to the provisional contributions and benefits.

(2) If, after the information has been provided, the sum of the final contributions and benefits for the reference calendar year differs from the sum for the provisional ones, there will be a final settlement.

Article 5
Obligation to provide truthful and complete information

Where an employee does not comply with their obligation to provide truthful and complete information, the President of the Office may decide to suspend the benefits concerned.

Other terms of employment

Rules for appointing and reappointing, and extending the term of office of, the President of the European Patent Office and framework contract

RULES FOR APPOINTING AND REAPPOINTING, AND EXTENDING THE TERM OF OFFICE OF, THE PRESIDENT OF THE EUROPEAN PATENT OFFICE[1]

Article 1
Term of office

(1) The President of the European Patent Office shall be appointed for a term of office of five years and may be reappointed for subsequent terms of office of five years.

(2) Where the Administrative Council finds it appropriate, a President's term of office may be extended for a period shorter than five years.

Article 2
Initiation of the procedure

(1) At the latest 18 months before the term of office of the President is expected to come to an end, the Administrative Council shall, on a proposal by the Chairperson and after enquiring about the President's intentions, decide by a simple majority of the Contracting States represented and voting (Article 35(1) EPC):

(a) either to proceed, by applying Article 1, to the President's reappointment or an extension of the President's term of office at its subsequent meeting or

(b) to hold a selection procedure by applying Articles 3 to 5.

(2) The decision under paragraph 1 shall be taken by secret ballot.

(3) In the procedure initiated under paragraph 1(a), the decision on the President's reappointment or on the extension of the President's term of office shall be taken by a majority of three-quarters of the votes of the Contracting States represented and voting (Article 35(2) EPC).

Article 3
Eligibility criteria

To be eligible to participate in the selection procedure for appointment as President of the European Patent Office, candidates shall:

(a) have the nationality of a Contracting State; and

(b) be supported by the Contracting State of which they are a national.

Article 4
Vacancy notice

(1) Following a decision to hold a selection procedure, the Administrative

1 Decision of the Admnistrative Council CA/D 5/24.

Council shall, on a proposal by its Chairperson, adopt a vacancy notice for the position of President of the European Patent Office as well as a provisional timeline for the selection procedure.

(2) The vacancy notice shall contain the following information:

(a) a description of the duties and the responsibilities of the President of the European Patent Office;

(b) the term of office and the expected date for the eventually appointed candidate to take up their duties;

(c) a specification of the required diplomas or other qualifications, amount and nature of experience and language knowledge;

(d) the required content of the application file, including evidence of compliance with the eligibility criteria defined in Article 3;

(e) the deadline and contact details for submitting the application file.

(3) The vacancy notice shall be published in the Official Journal and, subject to the Administrative Council's approval, in other media proposed by the Chairperson.

(4) Applications shall be submitted:

(a) within two months of the date of publication of the notice in the Official Journal;

(b) in electronic format and in one of the official languages of the European Patent Office;

(c) to the Chairperson via the Council Secretariat.

Article 5
Procedure for appointment

(1) Upon expiry of the application deadline, a review of all applications for compliance with the eligibility criteria defined in Article 3 shall be carried out by the Chairperson, with the support of the Council Secretariat.

(2) A report on the eligibility review, together with the lists of candidates found eligible or non-eligible, shall subsequently be submitted by the Chairperson to the Council for approval. The application files of eligible candidates shall be translated into the other two official languages by the Office and forwarded to the delegations.

(3) The Administrative Council may use external professional advice for further, complementary evaluation of all eligible candidates. While such complementary evaluation shall be shared with the delegations, it shall not result in any pre-selection of the eligible candidates.

(4) The Administrative Council shall conduct the appointment procedure with a view to selecting candidates, on as wide a geographical basis as possible from among the nationals of the Contracting States, who possess

the highest level of competence and integrity as well as having extensive practical experience.

(5) Together with the report under paragraph 2, the Chairperson shall submit a timeline to the Council for adoption, outlining the further steps in the appointment procedure. This timeline shall specify whether the Council will conduct a hearing of the candidates and whether the voting on candidates will take place at the same meeting as the hearing or at a subsequent one.

(6) If the Administrative Council decides to conduct a hearing of the candidates, it shall hear all the eligible candidates individually. It shall then deliberate on the basis of the application files, of the reports from the external advisers (where applicable under paragraph 3) and of the hearings, and decide on the appointment by voting in the following way:

(a) In the first and second rounds of voting, the delegations may vote for any eligible candidate.

(b) As from the second round of voting, the candidate receiving the fewest votes shall be eliminated; in the event of a tie for the least number of votes between two or more candidates, they shall be eliminated provided that at least one candidate remains.

(c) If, in one of the rounds of voting, an eligible candidate achieves a three-quarters majority (Article 35(2) EPC), they shall be appointed and the voting shall be concluded.

(d) If only one candidate remains following the eliminatory rounds of voting, without having achieved a three-quarters majority, a subsequent vote shall be taken to determine whether the remaining candidate achieves a three-quarters majority (Article 35(2) EPC).

(e) Abstentions shall be possible in all rounds of voting.

(7) Should no eligible candidate receive a three-quarters majority (Article 35(2) EPC), the voting procedure under paragraph 6 shall be repeated at the same or at a later meeting unless the Council decides otherwise by a simple majority (Article 35(1) EPC).

Article 6
Employment contract

The Chairperson shall be mandated to negotiate with the appointed candidate the terms of their employment contract, on the basis of the framework contract for the President of the European Patent Office. The same shall apply to the reappointment or extension of the term of office of an incumbent President.

Article7
Derogation from the procedure

In special cases, the Administrative Council may decide, by a three-quarters majority of the votes of the Contracting States represented and voting (Article 35(2) EPC), to derogate from these rules if it considers this justified.

EPO President - Updated framework contract[1]

Taking into account external and internal evolutions at the EPO, it appeared necessary to update the general framework of the contract for the President of the Office as adopted in CA/186/09 (following CA/C 11/09). A corresponding proposal has been submitted by the Chairman of the Administrative Council in the confidential document CA/C 7/17.

In application of the decision taken by the Administrative Council adopting said proposal in its 152nd meeting in June 2017, this document entails the updated framework contract which shall apply to the successful candidates in the procedure for the appointment of the next Presidents of the Office.

I. CONTEXT

1. In October 2009, with CA/C 11/09 (later published under the format of CA/186/09), the Council set the framework for conditions of the President's contract, which are subject to a negotiation between the successful candidate and the Chairman of the Administrative Council.

2. This framework was updated by the Council in June 2017, following CA/C 7/17, in order to take into account both external and internal considerations, in particular to continue to attract the best candidates for this important position and to better reflect the difference in responsibility between the President and the other managers of the Office.

3. The updated conditions will apply to the successful candidate in the procedure for the appointment of the President of the Office, adopted by the Council on 28 June 2017 (CA/23/17).

II. STRUCTURE

4. The contract's main headings (exhaustive list) are as follows:

   a) Appointment/length of term

   Five years as from [1 July 2018]. Renewable.

   b) Emoluments

   These comprise:

   - A monthly basic salary based on that carried by Job Group 1 [grade G17, step 3] under the salary scales (Annex III to the Service Regulations) for Germany; factor fixed at 135%.
   - A monthly supplementary allowance the equivalent of 10% of the basic monthly salary corresponding to step 3 in grade G17 of the salary scale for his place of employment.

1 CA/74/17

- The family and other allowances normally payable under the Service Regulations for permanent employees of the European Patent Office (hereinafter "Service Regulations").
- A housing allowance of EUR 5 000 a month; Article 23 of the Service Regulations applies.
- At the end of his mandate a lump sum corresponding to one month of salary per year in office.

c) Reimbursement of expenses

The general Service Regulations provisions apply. In addition, reception and representation expenses arising in the course of official duties are reimbursable at a flat rate equivalent to 7% of basic salary; official vehicles may be used.

d) Social security

The Service Regulations apply. The model is the contract for Vice-Presidents.

e) Pension

As also foreseen in the specimen contract concerning the appointment and terms of employment of Vice-Presidents of the European Patent Office (as amended by decision of the Administrative Council CA/D 9/11), the provisions of the New Pension Scheme Regulations shall apply, subject to the following:

- The minimum period of service required under Article 7 of the New Pension Scheme Regulations for entitlement to a retirement pension shall be reduced from ten to five years.
- If the contract is terminated before the five-year period mentioned in point a) above (Appointment/Length of term), has expired, Article 11 of the New Pension Scheme Regulations relating to the severance grant shall apply.
- Entitlement to the retirement pension accrued at the end of the present contract shall give rise, according to the preference of the elected President of the Office, either to payment of the amounts provided for in Article 11 of the New Pension Scheme Regulations or to payment of a retirement pension in accordance with Articles 8 and 9 of those Regulations or to the transfer of the actuarial equivalent in accordance with Article 12 of those Regulations.

f) Leave

The Service Regulations apply.

g) End of term of office

There are four possibilities:

- expiry of term
- Total inability to perform duties under article 62b of the Service Regulations
- termination under Article 53(1)(c) Service Regulations and subject to the conditions laid down in Articles 11 and 35 EPC
- resignation, subject to six months' notice in writing

h) Protocol on Privileges and Immunities (PPI)

A general reference is included, modelled on the contract for vice-presidents.

i) Rights and obligations

The Service Regulations apply mutatis mutandis. A declaration-of-nationality obligation is added, modelled on the contract for Vice-Presidents.

j) Disputes

The Service Regulations apply (Article 108).

III. LEGAL BASIS

5. Article 11(1) EPC and Article 33(2)(b) and (c) EPC and the Service Regulations plus annexes, as far as declared applicable, in accordance with Article 1(5) Service Regulations.

IV. DOCUMENTS CITED

6. CA/C 11/09; CA/186/09; CA/D 9/11; CA/C 7/17, CA/23/17

7. The Service Regulations for permanent employees of the European Patent Office are accessible on the website of the Office (epo.org).

Other terms of employment

Rules for appointing and reappointing, and extending the term of office of, the Vice-Presidents of the European Patent Office and specimen contract

RULES FOR APPOINTING AND REAPPOINTING, AND EXTENDING THE TERM OF OFFICE OF, THE VICE-PRESIDENTS OF THE EUROPEAN PATENT OFFICE[1]

Article 1
Term of office

(1) The Vice-Presidents of the European Patent Office shall be appointed for a term of office of five years and may be reappointed for subsequent terms of office of five years.

(2) Where the Administrative Council finds it appropriate, a Vice-President's term of office may be extended for a period shorter than five years.

(3) Any decision under paragraphs 1 and 2 shall be taken after the President of the European Patent Office has been consulted.

Article 2
Initiation of the procedure

(1) At the latest nine months before the term of office of a Vice-President is expected to come to an end, the President of the European Patent Office shall communicate to and discuss with the Administrative Council their intentions with regards to a Vice-President's reappointment or an extension of the Vice-President's term of office, or to holding a selection procedure.

(2) Upon the proposal of the President of the European Patent Office and the Chairperson, the Administrative Council shall decide by a simple majority of the Contracting States represented and voting (Article 35(1) EPC):

(a) either to proceed, by applying Article 1, to the Vice-President's reappointment or an extension of the Vice-President's term of office at its subsequent meeting or
(b) to hold a selection procedure by applying Articles 3 to 5.

(3) The decision under paragraph 2 shall be taken by secret ballot.

Article 3
Eligibility criteria

To be eligible to participate in the selection procedure for appointment as Vice-President of the European Patent Office, candidates shall:

(a) have the nationality of a Contracting State; and

(b) be supported by the Contracting State of which they are a national or by the President of the European Patent Office, or by both.

1 Decision of the Administrative Council CA/D 6/24.

Article 4
Vacancy notice

(1) Following a decision to hold a selection procedure, the Administrative Council shall, on a proposal by the President of the European Patent Office, adopt a vacancy notice for the position of Vice-President of the European Patent Office as well as a provisional timeline for the selection procedure.

(2) The vacancy notice shall contain the following information:

(a) the nature of the duties and the responsibilities involved in the position to be filled, the post profile and the President's programme for the envisaged period;
(b) the term of office and the expected date for the eventually appointed candidate to take up their duties;
(c) a specification of the required diplomas or other qualifications, amount and nature of experience and language knowledge;
(d) the required content of the application file, including evidence of compliance with the eligibility criteria defined in Article 3;
(e) the deadline and contact details for submitting the application file.

(3) The vacancy notice shall be published in the Official Journal and, subject to the Administrative Council's approval, in other media proposed by the Chairperson and the President of the European Patent Office.

(4) Applications shall be submitted:

(a) within two months of the date of publication of the notice in the Official Journal;
(b) in electronic format and in one of the official languages of the European Patent Office;
(c) via the Council Secretariat, to the Chairperson, who shall inform the President of the European Patent Office of the applications received.

Article 5
Procedure for appointment

(1) Upon expiry of the application deadline, a review of all applications for compliance with the eligibility criteria defined in Article 3 shall be carried out by the Chairperson, with the support of the Council Secretariat. The President of the European Patent Office may participate in such a review.

(2) A report on the eligibility review, together with the lists of candidates found eligible or non-eligible, shall subsequently be submitted by the Chairperson to the Council for approval. The application files of eligible candidates shall be translated into the other two official languages by the Office and forwarded to the delegations.

(3) Eligible candidates shall be interviewed by the Chairperson and the President of the European Patent Office. The President shall, in particular,

be consulted on the evaluation of candidates, and shall be invited to present any preferences as to the candidates.

(4) The Administrative Council shall conduct the appointment procedure with a view to selecting candidates, on as wide a geographical basis as possible from among the nationals of the Contracting States, who possess the highest level of competence and integrity as well as having extensive practical experience.

(5) Together with the report under paragraph 2, the Chairperson shall submit a timeline to the Council for adoption, outlining the further steps in the appointment procedure. This timeline shall specify whether the Council will conduct a hearing of the candidates and whether the voting on candidates will take place at the same meeting as the hearing or at a subsequent one.

(6) If the Administrative Council decides to conduct a hearing of the candidates in close co-operation with the President of the European Patent Office, it shall hear all the eligible candidates individually. It shall then deliberate on the basis of the application files and of the hearings, and, after having consulted the President of the European Patent Office, decide on the appointment by voting in the following way:

(a) In the first and second rounds of voting, the delegations may vote for any eligible candidate.
(b) As from the second round of voting, the candidate receiving the fewest votes shall be eliminated; in the event of a tie for the least number of votes between two or more candidates, they shall be eliminated provided that at least one candidate remains.
(c) If, in one of the rounds of voting, an eligible candidate achieves a simple majority (Article 35(1) EPC), they shall be appointed and the voting shall be concluded.
(d) If only one candidate remains following the eliminatory rounds of voting, without having achieved a simple majority, a subsequent vote shall be taken to determine whether the remaining candidate achieves a simple majority (Article 35(1) EPC).
(e) Abstentions shall be possible in all rounds of voting.

(7) Should no eligible candidate receive a simple majority (Article 35(1) EPC), the voting procedure under paragraph 6 shall be repeated at the same or at a later meeting unless the Council decides otherwise by a simple majority (Article 35(1) EPC).

Article 6
Employment contract

The Chairperson shall be mandated to negotiate, in agreement with the President of the European Patent Office, with the appointed candidate the terms of their employment contract, on the basis of the framework contract for the Vice-Presidents of the European Patent Office. The same shall apply to the re-appointment or extension of the term of office of an incumbent Vice-President.

Article 7
Derogation from the procedure

In special cases, and after consulting the President of the European Patent Office, the Administrative Council may decide, by a three-quarters majority of the Contracting States represented and voting (Article 35(2) EPC), to derogate from these rules if it considers this justified.

Specimen contract concerning the appointment and terms of employment of Vice-Presidents of the European Patent Office[1]

Between

the EUROPEAN PATENT ORGANISATION

and

Mr (Ms) ……..., born on …….., resident at ……..

Having regard to the European Patent Convention and in particular Article 11(2) and Article 33(2)(b) and (c) thereof,

Having regard to the Protocol on Privileges and Immunities of the European Patent Organisation and in particular Articles 14, 16, 17 and 18 thereof,

[2]Having regard to the Service Regulations for permanent and other employees of the European Patent Office (Service Regulations) and in particular Article 1(5) thereof which provides that the Service Regulations shall apply to the President and vice-presidents employed on contract unless their contract of employment expressly provides otherwise,

[3]Having regard to the Pension Scheme Regulations of the European Patent Office,

Having regard to the Regulation on internal tax for the benefit of the European Patent Organisation,

After confirmation from Mr (Ms) …….. that he (she) is familiar with all of these documents,

After consultation of the President of the European Patent Office,

THE FOLLOWING HAS BEEN AGREED:

Article 1
Appointment - Term of contract

(1)[4] Mr (Ms) ……..… is hereby appointed Vice-President Directorate-General ……..... of the European Patent Office with effect from ……..... .

(2)[5] This contract shall have a fixed term of five years from the date referred to in the first paragraph of this article. It may be extended by the Administrative Council. However, it may not be converted into a permanent appointment as provided for in Article 8(4) of the Service Regulations.

1 Decision of the Administrative Council CA/D 2/06.
2 Amended by decision of the Administrative Council CA/D 20/18.
3 Amended by decision of the Administrative Council CA/D 20/18.
4 Amended by decision of the Administrative Council CA/D 20/18.
5 Amended by decision of the Administrative Council CA/D 20/18.

(3)[1] The probationary period provided for in Article 13 of the Service Regulations shall not apply.

Article 2[2]
Role - Hierarchical position - Appraisal

(1) The remit and objectives of the Vice-President Directorate-General …..... are set out in the vacancy notice published in the Official Journal of the EPO and may be amended at any time in accordance with the Organisation's needs.

(2) Mr (Ms) …….....…..… shall report to, and within the limits defined in Article 20 of the Service Regulations follow any instructions received from, the President of the Office.

(3)[3] The annual objectives of Mr (Ms) …….....…..… shall be defined by the President of the Office, who may propose to the Administrative Council that he (she) be awarded a step, a promotion and/or a bonus in accordance with Articles 48, 48a and 49 of the Service Regulations within the limits set for employees appointed by the President of the Office. The Administrative Council shall decide on the proposal by a simple majority.

Article 3[4]
Remuneration

(1) Mr (Ms) …….....…..… shall be paid a basic monthly salary corresponding to Grade…., step...., in job group 1. This figure shall be net, i.e. after deduction of the internal tax referred to in Article 64(4) of the Service Regulations.

(2) Mr (Ms) …….....…..… shall receive as a monthly supplementary allowance the equivalent of 10% of the basic monthly salary corresponding to step 3 in Grade G17 of the salary scale of his (her) place of employment.

(3) Remuneration shall not be liable to national income tax or to payment of any compulsory national social security contributions. If Mr (Ms) ……..... .....…..… is performing or has performed other functions within the European Patent Office at the time of or prior to the present appointment, he (she) shall continue, where applicable, to participate in the salary savings plan under Article 65(3) of the Service Regulations.

1 Inserted by decision of the Administrative Council CA/D 20/18.
2 Amended by decision of the Administrative Council CA/D 20/18.
3 Inserted by decision of the Administrative Council CA/D 20/18.
4 Amended by decision of the Administrative Council CA/D 20/18.

Article 4[1]
Reimbursement of expenses

To cover personal costs arising in connection with the work of a Vice-President, Mr (Ms) …….....…..… shall receive the equivalent of 7% of his (her) basic monthly salary as a flat-rate, monthly representation allowance.

Article 5[2]
Social security

Mr (Ms) …….....…..… shall be covered by the social security scheme of the Office.

Article 6[3]
Pensions

The provisions of the New Pension Scheme Regulations shall apply, subject to the following:

(1) The minimum period of service required under Article 7 of the New Pension Scheme Regulations for entitlement to a retirement pension shall be reduced from ten to five years.

(2) If the present contract is terminated before the five-year period mentioned in Article 1, paragraph 2, has expired, Article 11 of the New Pension Scheme Regulations relating to the severance grant shall apply.

(3) Entitlement to the retirement pension accrued at the end of the present contract shall give rise, according to Mr (Ms) .....'s preference, either to payment of the amounts provided for in Article 11 of the New Pension Scheme Regulations or to payment of a retirement pension in accordance with Articles 8 and 9 of those Regulations or to the transfer of the actuarial equivalent in accordance with Article 12 of those Regulations.

Article 6
Pensions

(For Vice-Presidents who were employees of the European Patent Office before their appointment, Article 6 of the specimen contract shall read as follows:)

Mr (Ms) ..... shall continue to be a member of the same pension scheme, in accordance with the applicable Regulations, save that the minimum period of service required for entitlement to a retirement pension shall be reduced from ten to five years.

1 Amended by decision of the Administrative Council CA/D 20/18.
2 Amended by decision of the Administrative Council CA/D 20/18.
3 Amended by decision of the Administrative Council CA/D 9/11.

Article 7[1]
Working hours and part-time work

Articles 55 and 56 of the Service Regulations shall not apply.

Article 8[2]
Conduct

Mr (Ms) …….....…..… shall be subject to the rules of conduct for employees.

Article 9[3]
Unilateral termination of contract

(1) The contract may be terminated unilaterally by either party.

(2) The appointing authority may terminate the contract, in particular in the following cases:

   (a) The appointing authority considers that there are reasonable grounds for withdrawing the Organisation's confidence in the Vice-President, in particular in the case of unsatisfactory performance or misconduct. In this case, the Vice-President will be heard by the Administrative Council before a decision is taken on whether to terminate the contract.
   (b) The Vice-President has been unable to perform his (her) duties for at least six consecutive months.
   (c) A new President of the Office holding the same nationality as the Vice-President is appointed. In this event, the Office shall pay the Vice-President a lump sum of twelve times his (her) last basic salary.

(3) Articles 50(1)(b), 52, 53a, 53b, 54 and Articles 93 to 105 of the Service Regulations shall not apply.

(4) Article 53(4) of the Service Regulations shall not apply and is replaced by the following notice periods:

   (a) In the event of a unilateral termination, the party initiating the termination shall give six months' notice, unless the other party agrees otherwise or the contract term ends sooner.
   (b) If the termination results from the expiry of the contract, no notice shall be necessary.

(5) Any notification of early contract termination shall be in writing and dispatched against advice of delivery.

1 Amended by decision of the Administrative Council CA/D 20/18.
2 Amended by decision of the Administrative Council CA/D 20/18.
3 Amended by decision of the Administrative Council CA/D 20/18.

Article 10[1]
Mutually agreed termination of contract

(1) Subject to the approval of the Administrative Council, the contract may be terminated before the end of the term referred to in Article 1 by mutual agreement between the President of the Office and Mr (Ms) …….....…..… at the request of either of the two.

In this event, the party initiating the termination shall give six months' notice, unless the other party agrees otherwise or the contract term ends sooner.

(2) In the event of a mutually agreed termination of contract at the Office's initiative, the Office shall pay full remuneration during the notice period. Article 65 of the Service Regulations shall continue to apply during that period.

The Office shall also pay Mr (Ms) …….....…..… a lump sum of 70% of the basic salary that would have been payable from the date of termination until the contract's original expiry date, up to the sum of one year's net remuneration after deduction of internal tax and the Vice-President's personal contributions to the applicable Office pension scheme and of his (her) social security contributions and, where applicable, of his (her) contributions to the salary savings plan.

(3) At the end of the notice period, for Vice-Presidents who were employees of the European Patent Office before their appointment, a retirement pension or an early pension where applicable shall be paid on the basis of the rights accrued under the applicable Office pension scheme and his (her) age at that time. Where Article 65(3) of the Service Regulations applies, the balance of the salary savings plan shall be paid out.

(4) Paragraphs (2) and (3) shall not apply if the Vice-President is reinstated in accordance with Article 13 of this contract.

Article 11[2]
Reserve status

Article 46 of the Service Regulations shall not apply.

Article 12[3]
Secondment

Article 45 of the Service Regulations shall not apply.

1 Inserted by decision of the Administrative Council CA/D 20/18.
2 Inserted by decision of the Administrative Council CA/D 20/18.
3 Amended by decision of the Administrative Council CA/D 8/22.

Article 13[1]
Reinstatement as a permanent employee

(The following Article 13 shall be inserted in the contract for use in the case ofvice-presidents who were permanent employees of the Office before their appointment)

Unless otherwise provided for under the Service Regulations, Mr (Ms) ……. ….....…..…. shall be reinstated with immediate effect as a permanent employee of the Office upon termination of this contract and shall take up his (her) duties in a post corresponding to his (her) grade immediately prior to his (her) appointment as Vice-President by virtue of this contract. His (her) step shall be determined as if Mr (Ms) …….....….…..… had not ceased performing his (her) duties in that grade.

In the event of termination of contract on the ground of loss of confidence, reinstatement may take place only upon decision of the Administrative Council.

Article 14[2]
Protocol on Privileges and Immunities

(1) Article 14 of the Protocol on Privileges and Immunities of the European Patent Organisation shall apply to Mr (Ms) ....., subject to Article 22 thereof.

(2) Mr (Ms)…..... shall be subject to a tax on salaries and emoluments paid by the Office, including the compensation provided for under this contract in the event of termination on the initiative of the Office, in accordance with the Regulation on internal tax for the benefit of the European Patent Organisation, and shall therefore be exempt from national income tax in accordance with Article 16(1) of the Protocol.

Article 15[3]
General obligations - Declaration of nationality

(1)[4] Mr (Ms)…… hereby declares that he (she) has no other commitment, and is not bound by any other agreement, ban or restriction of any kind, that would prevent him (her) from exercising his (her) functions as Vice-President of the European Patent Office in full, with due regard to the obligations stipulated in Chapter 1 of Title II of the Service Regulations.

(2) Mr (Ms)…… hereby declares that he (she) is of ..... (and .....) nationality(ies).

1 Inserted by decision of the Administrative Council CA/D 20/18.
2 Amended by decision of the Administrative Council CA/D 20/18.
3 Amended by decision of the Administrative Council CA/D 20/18.
4 Amended by decision of the Administrative Council CA/D 7/17.

Article 16[1]
Future amendments

Any amendment to an article of the Service Regulations applicable to job group 1 and, where appropriate, the Pension Scheme Regulations shall apply directly to the present contract.

Done at .....

Date: .....

Mr (Ms) ....

For the European Patent Organisation:

The Chairman of the Administrative Council .....

1 Amended by decision of the Administrative Council CA/D 20/18.

Other terms of employment

Specimen contract concerning the appointment and terms of employment of Principal Directors

Specimen contract concerning the appointment and terms of employment of Principal Directors[1]

Between

the EUROPEAN PATENT OFFICE

and

Mr (Ms) .....

Having regard to the European Patent Convention, and in particular Article 10(2)(g) thereof,

Having regard to the Protocol on Privileges and Immunities of the European Patent Organisation, and in particular Articles 14, 16, 17 and 18 thereof,

[2,3]Having regard to the Service Regulations for permanent and other employees of the European Patent Office (hereinafter referred to as "the Service Regulations") and to the Pension Scheme Regulations of the European Patent Office,

Having regard to the regulation on internal tax for the benefit of the European Patent Organisation,

Having consulted the Vice-President DG 4 [and the Vice-President DG ....],

THE FOLLOWING IS HEREBY AGREED:

Article 1
Appointment; term of contract

1. Subject to Articles 8 and 9 of the Service Regulations, Mr (Ms) ..... shall be appointed principal director in Directorate-General ..... with effect from ..... .

2.[4] The term of the contract shall be five years. It may be extended by a decision of the President of the Office having consulted the Vice-President DG 4 [and the Vice-President DG .....]. The appointment shall end on the last day of the month in which Mr (Ms) ..... reaches the age of 65, except where a prolongation of service has been decided on in accordance with Article 54, paragraph 1(b), of the Service Regulations.

Article 2
Remuneration

1. Mr (Ms) .....'s basic monthly salary shall initially correspond to Grade ....., step ....., in job group 2[5]. This figure shall be net, i.e. after deduction of the internal tax referred to in Article 64, paragraph 4, of the Service

1 Decision of the Administrative Council CA/D 24/07.
2 Amended by decision of the Administrative Council CA/D 18/08.
3 Modified by decision of the Administrative Council CA/D 2/18.
4 Amended by decision of the Administrative Council CA/D 11/08.
5 Amended by decision of the Administrative Council CA/D 10/14.

Regulations.

2. Remuneration shall not be liable to national income tax or to payment of any compulsory national social-security contributions.

Article 3[1]
Pensions

The provisions of the Pension Scheme Regulations shall apply, subject to the following:

(a) The minimum period of service required by Article 7 of the (New) Pension Scheme Regulations for entitlement to a retirement pension shall be reduced from ten to five years.

(b) If the present contract is terminated before the five-year period mentioned in Article 1, paragraph 2, has expired, Article 11 of the (New) Pension Scheme Regulations relating to the severance grant shall apply.

(c) Entitlement to the retirement pension accrued at the end of the present contract shall give rise, according to Mr (Ms) .....'s preference, either to payment of the amounts provided for in Article 11 of the (New) Pension Scheme Regulations or to payment of a retirement pension in accordance with Articles 8 and 9 of those Regulations or to the transfer of the actuarial equivalent in accordance with Article 12 of those Regulations.

Article 3[2/3]
Pensions

(For principal directors who were permanent employees of the European Patent Office before their appointment, Article 3 of the specimen contract shall read as follows:)

Mr (Ms) ..... shall continue to be a member of the same pension scheme, in accordance with the applicable Regulations.

Article 4[4]
Inapplicable provisions of the Service Regulations

The Service Regulations shall apply to principal directors with the exception of Articles 45, 46, 56, 57, 58 and 58a.

Article 5
End of contract

1. The contract shall end:

   (a) on expiry of the period mentioned in Article 1, paragraph 2;

1 Amended by decision of the Administrative Council CA/D 18/08.
2 Inserted by decision of the Administrative Council CA/D 11/08.
3 Amended by decision of the Administrative Council CA/D 18/08.
4 Amended by decision of the Administrative Council CA/D 8/22.

(b) if terminated by one of the parties in accordance with paragraph 2;
(c) if the conditions set out in Article 54 of the Service Regulations are met.
(d)[1] for the reasons set out in Article 13, paragraph 2, of the Service Regulations.

2. (a) Mr (Ms) ..... may terminate the contract giving six months' notice. The letter of termination must be addressed to the President of the Office.
(b) The President of the Office may terminate the contract without notice if Mr (Ms) ....., deliberately or through gross negligence, fails to comply with his (her) obligations or if, at the time of recruitment, (s) he deliberately supplied false information about his (her) professional competence or about the conditions set out in Article 8 of the Service Regulations, and this information was a decisive factor in his (her) appointment. This decision shall be taken by the President of the Office having consulted the Vice-President DG 4 [and the Vice-President DG .....].

Article 5a[2]
Reinstatement as a permanent employee

(The following new Article 5a shall be inserted in the specimen contract for use in the case of principal directors who were permanent employees of the Office before their appointment:)

1. Unless otherwise provided under the Service Regulations and under Article 5, paragraph 2(b), of this contract, Mr (Ms) ..... shall be reinstated as a permanent employee of the Office without delay upon termination of the contract and shall take up his (her) duties in a post corresponding to the grade in which (s)he was classified immediately prior to his (her) appointment as principal director by virtue of the present contract. His (her) seniority in that grade shall be determined as if Mr (Ms) ..... had not ceased performing his (her) duties in that grade.

2. Paragraph 1 shall not apply:

(a) if the contract is terminated as a result of dismissal in accordance with Article 52 of the Service Regulations;
(b) if the contract is terminated as a result of dismissal in accordance with Article 53 of the Service Regulations;
(c) if the conditions of Article 54 of the Service Regulations apply.

Article 6[3]
Protocol on Privileges and Immunities

1. Article 14 of the Protocol on Privileges and Immunities of the European Patent Organisation shall apply to Mr (Ms) ….., subject to the provisions

1 Inserted by decision of the Administrative Council CA/D 11/08.
2 Inserted by decision of the Administrative Council CA/D 11/08.
3 Amended by decision of the Administrative Council CA/D 18/08.

laid down in Article 22 thereof.

2. Mr (Ms) ..... shall be subject to a tax on the salaries and emoluments paid by the Office, in accordance with the Regulation on internal tax for the benefit of the European Patent Organisation, and shall therefore be exempt from national income tax in accordance with Article 16, paragraph 1, of the Protocol.

Article 7[1]
Future amendments

All future amendments to regulations applicable to EPO staff that are also applicable to job group 2[2] shall automatically apply to this contract with the exception of amendments to Article 1, paragraph 6, of the Service Regulations.

Munich, ...

President of the
European Patent Office

Mr (Ms) …….....

....

1 Inserted by decision of the Administrative Council CA/D 11/08.
2 Amended by decision of the Administrative Council CA/D 10/14.

Other terms of employment

Regulation on the appointment and conditions of employment of members of the Enlarged Board of Appeal appointed under Article 11, paragraph 5, of the European Patent Convention

Article 1
Definitions

For the purpose of this Regulation:

(a) the "Convention" means the European Patent Convention of 5 October 1973 as revised by the Act revising the EPC of 29 November 2000,

(b) a "member of the Enlarged Board" means a legally-qualified member of the Enlarged Board of Appeal appointed under Article 11, paragraph 5, of the Convention,

(c)[1] the "Service Regulations" means the Service Regulations for permanent and other employees of the European Patent Office.

Article 2
Conditions of appointment

A person may be appointed as a member of the Enlarged Board only if at the time of his/her appointment he/she satisfies the conditions referred to in Article 11, paragraph 5, of the Convention.

Article 3
Duration of appointment

(1) The appointment of a member of the Enlarged Board shall take effect from the date stated in the letter of appointment, provided that he/she has accepted in writing and given an undertaking in accordance with Article 15 of the Service Regulations.

(2) The appointment shall lapse:

(a) on expiry of the period specified in the letter of appointment,
(b) three months after notice of resignation is given by a member of the Enlarged Board.

(3) Article 23, paragraph 1, first sentence, of the Convention shall apply *mutatis mutandis* with respect to removal from office.

Article 4
Letter of appointment

The letter of appointment shall be signed by the President of the Administrative Council.

1 Modified by decision of the Administrative Council CA/D 2/18.

Article 5
Specific rights and obligations

(1) A member of the Enlarged Board may be required to be present in the European Patent Office for the performance of his/her duties for at least 10 days in any one year.

(2)[1] Article 14, Article 14a, paragraph 1, Article 14b, Article 16, paragraph 1, Article 17, Article 19, paragraphs 1 and 3, and Article 28 of the Service Regulations shall apply *mutatis mutandis* to a member of the Enlarged Board. Article 15 of the Service Regulations shall apply, with the proviso that the member shall give the solemn undertaking in writing.

(3) No sanctions other than those laid down in Article 23, paragraph 1, of the Convention shall apply to a member of the Enlarged Board.

Article 6
Payment

A member of the Enlarged Board shall receive a fee of EUR 1 000 for each case in which he/she has acted. A member who has acted as rapporteur shall receive a fee of EUR 2 500. The fee shall become payable on completion of the procedure before the Enlarged Board.

Article 7
Reimbursement of expenses

(1) The provisions of the Service Regulations relating to officials of job group 3[2], which govern the payment of daily subsistence and the reimbursement of travelling expenses arising from official journeys, shall apply *mutatis mutandis* to a member of the Enlarged Board.

(2) A member of the Enlarged Board shall not be required to obtain prior approval for an official journey.

(3) The European Patent Organisation shall provide a member of the Enlarged Board whilst on official travel with insurance cover against risks to life and health equal to that provided for permanent employees of the European Patent Office in Articles 83 and 84 of the Service Regulations. The cost of this will be borne by the European Patent Office.

1 Amended by decision of the Administrative Council CA/D 7/17.
2 Amended by decision of the Administrative Council CA/D 10/14.

Other terms of employment

Conditions of employment for young professionals

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Articles 10(2(c) and 33(2)(b) and (c) thereof,

Having regard to the Protocol on Privileges and Immunities of the European Patent Organisation, and in particular Articles 14, 16, 17 and 18 thereof,

Having regard to the Service Regulations for permanent and other employees of the European Patent Office (hereinafter referred to as "the Service Regulations"),

Having regard to the New Pension Scheme Regulations of the European Patent Office (hereinafter referred to as "the New Pension Scheme Regulations"),

Having regard to the Regulation on internal tax for the benefit of the European Patent Organisation,

Aiming to provide recent high-achieving university graduates with an opportunity to gain their first postgraduate work experience in the international, diverse and inclusive environment of the European Patent Office (hereinafter referred to as "the Office"),

With a view to supplementing the conditions of employment under Article 1(7) of the Service Regulations with conditions for the employment of such graduates,

Aiming to lay down those conditions,

On a proposal from the President of the Office, submitted after consulting the General Consultative Committee,

Having regard to the opinion of the Budget and Finance Committee,

HAS DECIDED AS FOLLOWS:[1]

Article 1
Scope

(1) These conditions of employment (hereinafter referred to as "these conditions") apply to university graduates appointed to the Pan-European Seal Young Professionals Programme (hereinafter referred to as "the Programme"). Such graduates are referred to hereinafter as "young professionals".

(2) Only those provisions of the Service Regulations, of the New Pension Scheme Regulations and of their respective Implementing Rules that are referred to in these conditions apply to young professionals. If there is a discrepancy between these conditions and the Service Regulations, the New Pension Scheme Regulations or the Implementing Rules, these conditions prevail. The appointing authority may lay down further conditions to implement these conditions.

1 Decision of the Administrative Council CA/D 6/22.

(3) Without prejudice to Articles 5(1) and 8(3) of the Service Regulations, which apply to young professionals, and Articles 11a and 14 below, any discrimination in the application of these conditions on any ground – such as sex, gender, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual identity or orientation – is prohibited.

Article 2
Protection of personal data

Article 1b of the Service Regulations applies to young professionals.

Article 3
Recruitment

(1) When recruiting young professionals the appointing authority takes into account, to the extent possible in view of the Programme's specificity, the general criteria and conditions for recruitment laid down in Articles 5, 6, 9 and 10 of the Service Regulations.

(2) Recruitment to the Programme's first year is by way of selection other than that defined in Annex II of the Service Regulations and is based on the list of candidates put forward by the Programme's partner institutions.

(3) Young professionals have the opportunity to continue to the Programme's second and third years following a competitive recruitment procedure after the first year. This procedure is conducted in accordance with Annex II of the Service Regulations, with the exception of allocation to a job group.

(4) The appointing authority may lay down further terms and conditions for the recruitment of young professionals.

(5) For the purpose of Article 9 of the Service Regulations, before appointment, a successful candidate must complete a medical questionnaire provided by the Office and submit it for review by a medical practitioner designated by the President of the Office. This is so that the appointing authority can be satisfied that they fulfil the post's medical requirements.

Article 4
Appointment and allocation

(1) Young professionals are appointed for an initial period of 12 months. Subject to satisfactory conduct and performance, and after the competitive recruitment procedure referred to in Article 3(3) above, their appointment may be extended by 24 months.

(2) Young professionals are allocated to the department which selected them in the initial selection procedure under Article 3(2) above. To enrich their training, young professionals may be reallocated to other Office departments during their term of appointment.

(3) Young professionals may participate in the work of the patent granting process, but may not become members of the departments under Article 15 of the European Patent Convention.

Article 5
Probationary period

(1) Young professionals serve a probationary period of three months upon appointment. This is to determine their ability to perform their duties and to meet their training objectives as well as their efficiency and conduct.

(2) At the end of the probationary period, a report is made on the young professional's ability to perform their duties and to meet their training objectives and on their efficiency and conduct. The report is communicated to the young professional, who may then submit comments in writing.

(3) At the end of the probationary period, based on the probationary report, and in the event of satisfactory performance of duties, efficiency and conduct, the appointing authority confirms the appointment for the first 12 months.

(4) Based on the probationary report, the appointing authority may decide either to extend the probationary period by a period of up to three months or to dismiss a young professional on probation, if the performance of their duties, their efficiency and their conduct are inadequate.

Article 6
Rights and obligations

Title II of the Service Regulations on employees' rights and obligations applies to young professionals.

Article 7
Appraisal reports

(1) The ability, efficiency and conduct of young professionals are the subject of an appraisal report made at least once a year under conditions established by the appointing authority. The appraisal must be conducted in a fair and objective manner.

(2) The appraisal report is communicated to the young professional, who may make any comments on it which they consider relevant.

Article 8
Administrative status

Title III of the Service Regulations on career, except Article 44 (leave on personal grounds), Article 44b (family leave), Article 46 (reserve status), Article 47 (general principles and structure of the career system), Article 49 (promotion) and Article 52 (professional incompetence), applies to young professionals.

Article 8a
Parental leave

(1) Article 44a of the Service Regulations applies to young professionals, subject to the following conditions:

(2) Article 44a(2) of the Service Regulations is replaced with:

"During parental leave, the young professional shall cease to be entitled to remuneration, but shall be paid a monthly allowance equal to 25% of their basic salary. For single parents, or during the first 60 working days of parental leave where such leave is taken by the father during a period of maternity leave as defined by Article 61, or where such leave is taken by either parent immediately after maternity leave or during or immediately after adoption leave, the monthly allowance shall be 33% of their basic salary. For periods of half-time parental leave, the monthly allowance shall be reduced by half."

(3) Article 44a(3) of the Service Regulations is replaced with:

"During parental leave the young professional shall remain a member of the social security and incapacity schemes provided for under Chapter 2 (Social Security) of Title V and Article 11b of the conditions of employment for young professionals. Contributions to the social security scheme shall be borne in full by the Office. They shall be calculated on the basis of the young professional's basic salary, as if they were in full-time active service."

Article 9
Secondment

Young professionals selected to continue the Programme beyond the first year may be seconded for up to six months as required by the Programme for reasons of professional development. Article 45 of the Service Regulations applies to young professionals in the Programme's second or third year.

Article 10
Termination of service

(1) Service is terminated automatically on the expiry date specified in the letter of appointment or of any subsequent extension.

(2) Service is also terminated:

(a) by resignation in accordance with the conditions in Article 51 of the Service Regulations;
(b) by dismissal by the appointing authority;
(c) as a result of disciplinary measures under Article 94 of the Service Regulations;
(d) for any of the reasons and under the conditions in Article 53 of the Service Regulations;
(e) for the reasons set out in Article 5 above;
(f) by death.

(3) In the event of a Joint Committee under Article 53a for reasons other than professional incompetence, it will be enlarged by two additional members in active employment in job group 6.

Article 11
Working conditions

Title IV of the Service Regulations on working conditions, except Article 56 (part-time work), Article 57 (overtime), Article 58 (shift work), Article 58a (permanent employees on call), Article 62b(3) (entitlements during incapacity during service) and Article 62c(4) (incapacity for fixed-term employees upon termination of service), applies to young professionals.

Article 11a
Entitlements during incapacity during service

Article 62b of the Service Regulations applies to young professionals, except that paragraph 3 is replaced with:

"During a period of incapacity, a young professional shall be entitled to

(a) a proportion of their basic salary and of the young professional allowance equal to the time worked;

(b) 70% of their basic salary for the time that they are discharged from duties for reasons of incapacity;

(c) if applicable, the dependants' allowance in full;

(d) annual leave in proportion to the time actually worked;

(e) full benefits, as applicable to young professionals, under the social security scheme provided for under Chapter 2 of Title V of the Service Regulations. Contributions to the social security scheme shall be calculated on the basic salary which the young professional would have received for normal full-time work."

Article 11b
Incapacity upon termination of service

Article 62c of the Service Regulations applies to young professionals, except that paragraph 4 is replaced with:

"During a period of incapacity, a former young professional shall be entitled to

(a) 70% of their last basic salary;

(b) full benefits, as applicable to young professionals, under the social security scheme provided for under Chapter 2 of Title V of the Service Regulations."

Article 12
Salary

(1) Articles 64, 65 and 66 of the Service Regulations apply to young professionals, subject to these conditions.

(2) Young professionals are entitled to the following basic salary:

(a) in the first year of employment, 67 per cent of the amount payable for Grade G1, step 4, which is subject to applicable social security and pension contributions and yearly salary adjustments
(b) in the second and third years of employment, the amount payable for Grade G1, step 4, which is subject to applicable social security and pension contributions and yearly salary adjustments

Article 12a
Allowances and expenses

(1) Young professionals are entitled to a young professional allowance as set out in Annex III B of the Service Regulations, which is subject to yearly salary adjustments.

(2) Article 69 of the Service Regulations applies to young professionals.

(3) Articles 77(1), 78 and 79 of the Service Regulations apply to young professionals.

(4) Young professionals are not entitled to any other allowances as defined in the Service Regulations, including any other family allowances, nor to payment of any other expenses as defined in the Service Regulations.

Article 13
Rewards

(1) Further to Article 12 above, Article 48 of the Service Regulations applies to young professionals after successful completion of the first 12 months of their appointment and selection in the competitive recruitment procedure referred to in Article 3(3) above.

(2) Article 48a of the Service Regulations applies to young professionals.

(3) The appointing authority may lay down further terms and conditions for the granting of rewards to young professionals.

Article 14
Social security scheme

Young professionals are affiliated to the Office's social security scheme and New Pension Scheme for the duration of their appointment, subject to these conditions.

Article 15
Healthcare insurance

Article 83a of the Service Regulations applies to young professionals, subject to these conditions.

Article 16
Long-term care insurance

Article 83b of the Service Regulations applies to young professionals, subject to these conditions.

Article 17
Death insurance

(1) Article 84a(1)(a) of the Service Regulations applies to young professionals.

(2) Article 84a(1)(b) of the Service Regulations is replaced with:

"in the event of death of the young professional: a lump sum equal to 12 months' basic salary under Article 12 of the conditions of employment for young professionals."

(3) Article 84a(2) and (3) of the Service Regulations applies to young professionals.

(4) Article 84a(4) of the Service Regulations does not apply to young professionals.

(5) The contribution rates applicable to young professionals for death insurance coverage correspond to 12/33 of the rates applicable to permanent and fixed-term staff.

Article 18
Maternity grant

Article 85 of the Service Regulations applies to young professionals.

Article 19
Gifts, loans and advances

Article 87 of the Service Regulations applies to young professionals.

Article 20
Recovery of undue payment

Article 88 of the Service Regulations applies to young professionals.

Article 21
Medical opinions

Title VI of the Service Regulations on medical opinions applies to young professionals, subject to these conditions.

Article 22
Pension scheme

(1) Young professionals are covered by the New Pension Scheme. The New Pension Scheme Regulations apply, subject to the following conditions:

(a) Section 3 of Chapter II (inward and outward transfer of pension rights) and Chapter V (family allowances) do not apply to young professionals.

(b) Chapter III (survivor's pension) and Chapter IV (orphan's or dependant's pension) apply with the following amendments:

(i) Article 14(2) is replaced with:

"The survivor's pension shall not be less than 35% of the young professional's last salary."

(ii) Article 19(2) is replaced with:

"Where the young professional dies leaving a spouse entitled to a survivor's pension, the pension referred to in paragraph 1 above shall be 40% of the survivor's pension, disregarding any reductions pursuant to Article 15.

The pensions referred to in this paragraph shall be brought up to the levels provided for in paragraph 3 in the event of the spouse entitled to a survivor's pension dying, remarrying or losing their rights to that pension."

(iii) Article 19(3) is replaced with:

"Where the young professional dies without leaving a spouse entitled to a survivor's pension, the pension referred to in paragraph 1 above shall be:

- 80% of the theoretical survivor's pension, disregarding any reductions pursuant to Article 15,
- increased in respect of the second and every further beneficiary by an amount equal to twice the allowance for a dependent child."

(iv) Article 19(5) does not apply to young professionals.

(2) The Implementing Rules to the New Pension Scheme Regulations apply, subject to the following conditions:

(a) Rules 12.1/1 (inward transfer of previously acquired rights) and 12.2/1 (transfer of pension rights to an outward scheme) do not apply to young professionals.

(b) Rule 21.1/1 (definition of the total pension for apportionment) is replaced with:

"The total pension shall comprise:

- a survivor's pension as would be payable to a surviving spouse of the deceased young professional in accordance with Article 14 only;
- orphan's pensions calculated as if all orphans of the deceased young professional belonged to the group entitled to the survivor's pension mentioned above. In accordance with the first subparagraph of Article 19(2), only one orphan's pension shall be taken into account in this calculation;
- a dependants' allowance."

(c) Rule 21.1/2 (apportionment of the total pension) is replaced with:

"(i) The total pension so calculated shall be apportioned among:

- where appropriate, the spouse;
- orphans

in proportion to the amounts which would have been payable directly to each group of beneficiaries considered separately (after application of Articles 15 and 17).

(ii) If the amounts so apportioned exceed the pensions and allowances to which the beneficiaries would have been entitled if they had been considered separately, any such excess amounts shall not be payable."

(3) Young professionals are not eligible to participate in the salary savings plan.

Article 23
Disciplinary measures

(1) Title VII of the Service Regulations on disciplinary measures, except Article 94(1)(e) to (g), applies to young professionals.

(2) In the event of a Disciplinary Committee under Article 97a of the Service Regulations, it will be enlarged by two additional members in active employment in job group 6.

Article 24
Settlement of disputes

Title VIII of the Service Regulations on the settlement of disputes applies to young professionals.

Article 25
Protocol on Privileges and Immunities

(1) Articles 14, 16, 18 and 19 of the Protocol on Privileges and Immunities of the European Patent Organisation apply to young professionals in active employment, subject to Article 22 thereof.

(2) Young professionals are subject to tax on the salaries and emoluments paid by the Office in accordance with the Regulation on internal tax for

the benefit of the European Patent Organisation and are therefore exempt from national income tax in accordance with Article 16(1) of the Protocol on Privileges and Immunities of the European Patent Organisation.

Article 26
Transitional measures

(1) Pan-European Seal trainees recruited to start in September 2022 will join the Programme's first year.

(2) Pan-European Seal trainees who are part of the Pan-European Seal Programme when these conditions enter into force may apply for the Programme's second year. Their applications will be assessed based on their performance and the results of a development centre. Exceptionally, successful candidates will be appointed on this basis instead of under the procedure in Annex II to the Service Regulations.

Article 27
Entry into force

This decision enters into force on 30 June 2022.

Done at Munich, 30 June 2022

For the Administrative Council

The Chairperson
Josef KRATOCHVÍL

Legal framework for the protection of personal data at the European Patent Office

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IMPLEMENTING RULES FOR ARTICLES 1B AND 32A OF THE SERVICE REGULATIONS FOR PERMANENT AND OTHER EMPLOYEES OF THE EUROPEAN PATENT OFFICE ON THE PROTECTION OF PERSONAL DATA[1/2]

These Implementing Rules set out the principles and detailed provisions governing the processing of personal data under Articles 1b and 32a of the Service Regulations.

I. General provisions

Article 1
Purpose

(1) The purpose of these Rules is to support the implementation of Articles 1b and 32a of the Service Regulations by establishing the legal framework necessary to ensure that the fundamental rights of natural persons to privacy and to the protection of their personal data processed by the Office are observed and to provide for accountability in this regard.

(2) These Rules will be supplemented by

a. further rules, administrative instructions and decisions adopted by the President of the Office,

b. administrative instructions adopted by the President of the Boards of Appeal in the context of the powers under Articles 10(2)(a), (e), (f) and (h), 11(3) and (5) and 48(1) of the European Patent Convention (EPC) which have been delegated to him or her by the President of the Office in so far as they relate to the Boards of Appeal Unit and its staff, including the members and Chairs of the Boards of Appeal and of the Enlarged Board of Appeal (Act of Delegation), and

c. operational documents issued by the Data Protection Officer, which will specify more detailed requirements and procedures for the processing of personal data.

1 Decision of the Administrative Council CA/D 5/21.
2 Decision of the President of the European Patent Office of 16 December 2021.

Article 2

1. Where the President adopted internal administrative instructions such as circulars, which directly or indirectly refer to the Guidelines for the Protection of Personal Data in the European Patent Office, these internal administrative instructions shall as of 1 January 2022 be interpreted to refer to Articles 1b and 32a of the Service Regulations for permanent and other employees of the European Patent Office and the DPR.

Article 2
Field of application

(1) These Rules apply to the Office's processing of personal data wholly or partly by automated means and to its processing other than by automated means of personal data which form or are intended to form part of a filing system.

(2) These Rules apply to all persons covered by Article 1 of the Service Regulations.

(3) These Rules also apply to all natural persons not covered by paragraph 2 whose personal data are processed by the Office.

(4) These Rules do not apply to the processing of personal data of deceased persons, of personal data which concerns legal persons or of anonymous information.

(5) Files or sets of files, including their cover pages, which are not structured according to specific criteria do not fall within the scope of these Rules.

(6) Articles 49 to 52 do not apply to the processing of personal data by the Boards of Appeal in their judicial capacity. An independent oversight mechanism for the Boards of Appeal shall be established to ensure compliance with these Rules.

Article 3
Definitions

For the purposes of these Rules:

a. **"personal data"** means any information relating to any identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to his or her physical, physiological, genetic, mental, economic, cultural or social identity; personal data which have undergone pseudonymisation but which could be attributed to a natural person by the use of additional information are to be considered to be information relating to an identifiable natural person.

b. **"processing"** of personal data means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

c. **"restriction of processing"** means the marking of stored personal data with the aim of limiting their processing in the future, including programming measures to permanently prevent access to such data.

d. **"profiling"** means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements.

e. **"pseudonymisation"** means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person.

f. **"filing system"** means any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis.

g. **"controller"** means the entity, namely the European Patent Office, which, alone or jointly with others, determines the purposes and means of the processing of personal data.

h. **"delegated controller"** means the operational unit, represented by its head, ensuring that all processing operations involving personal data that are performed within the operational unit comply with these Rules. The person representing the unit shall be a manager at senior level, normally at least a principal director.

i. **"operational unit"** means an organisational unit of the Office performing tasks and/or activities within the Office and defining the purpose, rationale and business needs of a processing operation.

j. **"processor"** means a natural or legal person, public authority, agency or any other entity which processes personal data on behalf of the controller.

k. **"recipient"** means a natural or legal person, public authority, agency or any other entity to which personal data are disclosed, whether a third party or not. However, public authorities which may receive personal data within the framework of a particular inquiry in accordance with the Protocol on Privileges and Immunities of the European Patent Organisation are not to be regarded as recipients; the processing of those data by those public authorities shall be in compliance with the data protection rules applicable in view of the purposes of the processing.

l. **"third party"** means any natural or legal person, public authority, agency or body other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor, are authorised to process personal data.

m. **"consent"** of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which the data

subject, by a statement or by a clear affirmative action, signifies agreement to processing of personal data relating to him or her.

n. **"personal data breach"** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.

o. **"genetic data"** means personal data relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from that natural person.

p. **"biometric data"** means personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data. The processing of photographs should not systematically be considered to be processing of special categories of personal data as they are covered by the definition of biometric data only when processed through specific technical means allowing the unique identification or authentication of a natural person.

q. **"personal data concerning health"** means personal data related to the physical or mental health of a natural person, including the provision of healthcare services, which reveal information about his or her health status.

r. **"anonymous information"** means information which does not relate to an identified or identifiable natural person or to personal data rendered anonymous in such a manner that the data subject is not or no longer identifiable.

s. **"transmission of personal data"** means disclosure, dissemination of or otherwise making available, including by granting access, of personal data to a party within the European Patent Organisation or to a national industrial property office or other public authority of a contracting state to the European Patent Convention under the conditions laid down in Article 8.

t. **"transfer of personal data"** means disclosure, dissemination of or otherwise making available, including by granting access, of personal data to a person or an entity outside the European Patent Organisation which is neither a national industrial property office nor a public authority of a contracting state to the European Patent Convention under the conditions laid down in Article 9.

u. **"third country"** means a country which is not a contracting state to the European Patent Convention.

v. **"erasure of data"** means the obliteration of stored data in such a way that reconstruction is not possible.

w. **"data subject"** means any identified or identifiable natural person, irrespective of whether that person is an employee of the Office or not; to determine

whether a natural person is identifiable, account should be taken of all the means reasonably likely to be used, such as singling out, either by the controller or by another person, to identify the natural person directly or indirectly.

x. **"employee"** means every person covered by Article 1 of the Service Regulations.

y. **"legal provisions of the European Patent Organisation"** means the European Patent Convention or its constituent parts, international agreements and other legal arrangements concluded by the President of the Office, rules and instruments enacted by the Administrative Council, as well as circulars, communiqués and all other legal provisions adopted or issued by the President of the Office or by the President of the Boards of Appeal.

z. **"information society service"** means any service provided at a distance, by electronic means and at the individual request of a recipient of services.

II. General rules on the lawfulness of processing personal data

Article 4
Principles relating to processing of personal data

(1) The controller ensures that the principles set out in this Article are observed. In particular, the controller is responsible for, and shall be able to demonstrate, compliance with paragraph 2 ("accountability"). The controller shall ensure that the processing of personal data, including the reasons for it and the means used, is appropriately documented. To this end, the controller shall follow a structured and risk-based approach to designing and documenting processing operations. The controller shall also be able to demonstrate to data subjects at all times that the documented commitments and conditions are observed when processing operations are carried out. Due regard shall be had to the organisational autonomy of the Boards of Appeal Unit and to the judicial independence of the Boards of Appeal.

(2) Personal data shall be:

a. processed lawfully, fairly and in a manner transparent to the data subject ("lawfulness, fairness and transparency"); the data subject shall be informed of the existence of the processing operation and its purposes, and the controller shall provide the data subject with any further information necessary to ensure fair and transparent processing, taking into account the specific circumstances and context in which the personal data are processed;
b. collected for specified, explicit and legitimate purposes and not further processed in a way that is incompatible with these purposes ("purpose limitation");
c. adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ("data minimisation");

d. accurate and, where necessary, kept up to date; every reasonable step shall be taken to ensure that personal data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified without delay ("accuracy");
e. kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data were collected or for which they are further processed ("storage limitation");
f. processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ("integrity and confidentiality").

(3) As a general rule, personal data shall be collected from the data subject wherever possible.

Article 5
Lawfulness of processing

Processing of personal data is lawful only if and to the extent that at least one of the following applies:

a. processing is necessary for the performance of a task carried out in the exercise of the official activities of the European Patent Organisation or in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and functioning, or

b. processing is necessary for compliance with a legal obligation to which the controller is subject, or

c. processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract,

d. or d. the data subject has given explicit consent to the processing of his or her personal data for one or more specific purposes, or

e. processing is necessary in order to protect the vital interests of the data subject or of another natural person.

Article 6
Processing for another compatible purpose

(1) Without prejudice to Articles 4, 5 and 12, the controller may process personal data for a purpose other than that for which the personal data were collected only if such other purpose is compatible with the purpose for which the personal data were initially collected. In such a case, no legal basis separate from that which allowed the collection of the personal data is required. The legal basis for the initial collection and processing of personal data provided by the applicable legal provisions of the European Patent Organisation may

also serve as a legal basis for further processing. However, data may not be further processed in a way that is unexpected, inappropriate or objectionable for the data subject.

(2) Personal data may also be processed for purposes other than those for which they have been collected, if such processing can be based on the data subject's explicit consent or applicable legal provisions of the European Patent Organisation which constitute a necessary and proportionate measure in a democratic society to safeguard the objectives referred to in Article 25.

(3) Where the processing for a purpose other than that for which the personal data have been collected is not based on the data subject's explicit consent or on applicable legal provisions of the European Patent Organisation, the controller shall, in order to ascertain whether processing for another purpose is compatible with the purposes for which the personal data were initially collected, take into account, inter alia:

a. any link between the purposes for which the personal data were collected and the purpose of the intended further processing;
b. the context in which the personal data were collected, in particular regarding the relationship between data subjects and the controller;
c. the nature of the personal data, in particular whether special categories of personal data are processed pursuant to Article 11 or whether personal data related to criminal convictions and offences are processed pursuant to Article 12;
d. the possible consequences of the intended further processing for data subjects;
e. the existence of appropriate safeguards, which may include encryption or pseudonymisation.

Article 7
Conditions for consent

(1) Where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data.

(2) Consent shall be given by a clear and affirmative act establishing a freely given, specific, informed and unambiguous indication of the data subject's agreement to the processing of personal data relating to him or her, for example in the form of a written statement, including one made by electronic means, or an oral statement.

(3) Consent shall cover all processing activities carried out for the same purpose or purposes. When the processing has multiple purposes, consent shall be given for each one of them.

(4) For consent to be informed, the data subject shall be aware at least of the identity of the controller and the purposes of the processing for which the personal data are intended. Consent cannot be regarded as freely given

if the data subject has no genuine or free choice or is unable to refuse or withdraw consent without detriment.

(5) The data subject shall have the right to withdraw consent at any time without affecting the lawfulness of processing based on consent before its withdrawal. Prior to giving consent, the data subject shall be informed of this. It shall be as easy to withdraw as to give consent. In order to ensure that consent is freely given, consent cannot provide a valid legal ground for the processing of personal data in a specific case where there is a clear imbalance between the data subject and the controller and it is therefore unlikely in view of all the circumstances of that specific situation that consent was freely given.

(6) If the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and plain language. Any part of such a declaration which constitutes an infringement of these Rules will not be binding.

(7) When assessing whether consent is freely given, utmost account shall be taken of whether, inter alia, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract.

(8) Where Article 5(d) applies in relation to the offer of information society services directly to a child, the processing of the child's personal data is lawful where the child is at least 13 years old. Where the child is below the age of 13, such processing is lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child. The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking into consideration available technology.

Article 8
Transmission of personal data to public authorities within the territory of the contracting states and to a national industrial property office of a contracting state

(1) Without prejudice to Articles 4, 5, 6, 11 and 12, personal data may be transmitted from the Office to a recipient outside the Office but within the territory of the contracting states only if the recipient is a public authority and the data are necessary for the performance of tasks within the recipient's competence and where the transmission is compatible with the tasks and the functioning of the Office.

(2) Without prejudice to Articles 4, 5, 6, 11 and 12, personal data may be transmitted by the Office to a national industrial property office of a contracting state if the data are necessary for the performance of tasks within the recipient's competence or for the exercise of the official authority vested

in it and processing is necessary to carry out tasks in the exercise of the official activities of the European Patent Organisation or in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and functioning.

(3) The recipient shall provide evidence that it is necessary to have the data transmitted for a specific purpose deriving from the Office's obligations of co-operation with the contracting states. The controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, shall establish that it is proportionate to transmit the personal data for that specific purpose, after having demonstrably weighed up the various competing interests.

(4) Where the controller initiates a transmission under paragraph 1 or 2, it shall demonstrate that the transmission of personal data is necessary for and proportionate to the purposes of the transmission by applying the criteria laid down in those paragraphs.

(5) Without prejudice to Articles 4, 5, 6, 11 and 12, where the processing is to be carried out by a private entity engaged on behalf of the controller, personal data may be transmitted from the Office within the territory of the European Economic Area only if in compliance with these Rules and under the conditions set forth in Articles 30 and 31 of these Rules.

Article 9
Transfer of personal data

(1) Transfers of personal data shall take place only if in compliance with these Rules, including the conditions laid down in this Article and/or Article 10. This also applies to transfers of data intended for processing after transfer to a third country or to an international organisation, and to onward transfers of personal data from a third country or an international organisation to another third country or to another international organisation. All provisions in this Article and/or Article 10 shall be applied in order to ensure that the level of protection of natural persons guaranteed by these Rules is not undermined.

(2) The transfer of personal data to recipients outside the European Patent Office which are not covered by Article 8(1), (2) and (5) is permissible only if an adequate level of protection is ensured in the country of the recipient, or in a territory or one or more sectors within that country, or within the receiving international organisation and the data are transferred solely to allow tasks within the competence of the controller to be carried out.

(3) In cases of doubt, the President of the Office decides, after consulting the Data Protection Officer and the Data Protection Board, whether the protection afforded by the country or international organisation in question can be considered adequate.

(4) Transfers outside the European Patent Office to recipients which are not covered by Article 8(1) and (2) may be carried out to public authorities or bodies in third countries, or to international organisations with corresponding

duties or functions on the basis of provisions to be inserted into administrative arrangements, such as a memorandum of understanding, providing for enforceable and effective rights for data subjects.

(5) In the absence of an adequate level of protection pursuant to paragraphs 1 and 3, the controller or processor may transfer personal data to recipients outside the European Patent Office only if the controller or processor has provided appropriate safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available. Such appropriate safeguards may be provided for by appropriate contractual clauses drafted after consultation of the Data Protection Board or by appropriate certification mechanisms.

(6) Personal data transferred under this Article may be processed or used only for the purpose for which they have been transferred. They shall be deleted as soon as that purpose has been achieved. The recipient shall be advised of this and obliged to act accordingly by contract or agreement. The recipient shall provide evidence that it is necessary to have the data transferred for a specific purpose. The controller, where there is any reason to assume that the data subject's legitimate interests might be prejudiced, shall establish that it is proportionate to transfer the personal data for that specific purpose after having demonstrably weighed up the various competing interests.

(7) Where the controller initiates a transfer of personal data under this Article, it shall demonstrate that this transfer is necessary for and proportionate to the purposes of the transfer by applying the criteria laid down in this Article.

Article 10
Derogations for specific situations

(1) In the absence of an adequate level of protection in the country of the recipient, or of appropriate safeguards under Article 9, the transfer of personal data to recipients outside the European Patent Office which are not a national industrial property office of a contracting state is permissible only exceptionally where:

a. the data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequate level of protection and appropriate safeguards;
b. the transfer is necessary for the performance of a contract between the data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request;
c. the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person;
d. the transfer is necessary for the performance of a task in the exercise of the official activities of the European Patent Organisation or in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and

functioning, or to perform obligations arising from its duty of co-operation with the contracting states;

e. the data transfer is necessary for the establishment, exercise or defence of legal claims and their transmission is not precluded by agreements under international law or other applicable legal provisions of the European Patent Organisation;

f. the transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving explicit consent; or

g. the transfer is made from a register which, according to the legal provisions of the European Patent Organisation, is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, to the extent that the conditions laid down for such consultation are fulfilled in the particular case.

(2) Provision should be made in specific situations for the possibility of transfers in certain circumstances where the data subject has given his or her explicit consent and where the transfer is occasional and necessary in relation to a contract or a legal claim, regardless of whether in a judicial procedure or whether in an administrative or any out-of-court procedure. Provision should also be made for the possibility of transfers where required to perform obligations arising from the Office's duty of co-operation with the contracting states or where the transfer is made from a register established by the legal provisions of the European Patent Organisation and intended for consultation by the public or persons having a legitimate interest. In the latter case, such a transfer should not involve the entirety of the personal data or entire categories of the data contained in the register, unless authorised by legal provisions of the European Patent Organisation, and, when the register is intended for consultation by persons having a legitimate interest, the transfer should be made only at the request of those persons or, if they are to be the recipients, taking into full account the interests and fundamental rights of the data subject.

(3) Paragraph 1(a), (b) and (c) does not apply to tasks carried out by the European Patent Office in the exercise of its official activities.

(4) What constitutes a task carried out in the exercise of the official activities of the European Patent Office or in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and functioning, or an obligation arising from the Office's duty of co-operation with the contracting states referred to in paragraph 1(d) is to be established on the basis of the European Patent Convention and/or other applicable legal provisions of the European Patent Organisation.

(5) A transfer pursuant to paragraph 1(g) shall not involve the entirety of the personal data or entire categories of the personal data contained in the register, unless authorised by the applicable legal provisions of the European Patent Organisation. Where the register is intended for consultation

by persons having a legitimate interest, the transfer may be made only at the request of those persons or if they are to be the recipients, taking into full account the interests and fundamental rights of the data subject.

(6) These derogations shall apply in particular to data transfers required and necessary in the exercise of the official activities of the European Patent Organisation or the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and functioning, or in reason of obligations deriving from its duty of co-operation with the contracting states, for example in cases of international data exchange between the Office and national bodies, tax or customs administrations, financial supervisory authorities and services competent for social security matters or for public health, for example in the case of contact tracing for contagious diseases. A transfer of personal data is also to be regarded as lawful where it is necessary to protect an interest which is essential for the data subject's or another person's vital interests, including physical integrity or life, if the data subject is incapable of giving explicit consent. In the absence of an adequacy decision within the meaning of Article 9(2), the President of the Office may, in accordance with Article 9(4), and for important reasons relating to the legitimate exercise of the official authority vested in the Office, which includes the processing necessary for its management and functioning, or in reason of obligations deriving from its duty of co-operation with the contracting states, expressly set limits to the transfer of specific categories of data to a third country or an international organisation.

Article 11
Processing of special categories of personal data

(1) The processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade-union membership, of genetic data or biometric data for the purpose of uniquely identifying a natural person and of data concerning health or data concerning a natural person's sex life or sexual orientation is prohibited.

(2) Paragraph 1 does not apply where one of the following applies:

a. the data subject has given explicit consent to the processing of those data for one or more specified purposes.
b. processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security law in so far as it is authorised by legal provisions of the European Patent Organisation providing for appropriate safeguards for the fundamental rights and the interests of the data subject.
c. processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving explicit consent.
d. processing relates to personal data which have been manifestly made public by the data subject.

e. the processing is necessary for the establishment, exercise or defence of legal claims.
f. the processing is necessary for a specific purpose relating to the performance of a task carried out in the exercise of the official activities of the European Patent Organisation or in the legitimate exercise of the official authority vested in the controller, which includes the processing substantially necessary for the management and functioning of the Office, having regard to the principle of proportionality, or in reason of obligations arising from its duty of co-operation with the contracting states. This processing shall be based on a legal instrument which is proportionate to the aim pursued, respects the essence of the right to data protection and provides for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.
g. the processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of healthcare, on the basis of national law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject, in particular professional secrecy.

(3) Paragraph 1 does not apply where processing of the special categories of data is required for the purposes of preventive or occupational medicine, the assessment of an employee's working capacity, medical diagnosis, the provision of health or social care or treatment, the management of health or social care systems and services or medical examinations and opinions provided for in the Service Regulations or other legal provisions of the European Patent Organisation and where those data are processed by a health professional subject to the obligation of professional secrecy or by another person subject to an equivalent obligation of secrecy.

Article 12
Processing of personal data relating to criminal convictions and offences

(1) Processing of data relating to criminal offences, criminal convictions or security measures based on Article 5(a) may be carried out only after consultation of the Data Protection Board or when the processing is covered by legal provisions of the European Patent Organisation providing for appropriate safeguards for the rights and freedoms of data subjects.

(2) Suspicions regarding offences shall also be included in the concept of "offences", since the processing of data relating to matters which have not led to convictions requires protection equal to that afforded to criminal convictions.

(3) The term "security measures" under this Article refers to measures taken against individuals in the context of a criminal (or administrative) procedure, such as forced admission to a psychiatric hospital or asset freezes.

Article 13
Processing which does not require identification

(1) If the purposes for which the controller processes personal data do not or no longer require the identification of a data subject by the controller, the controller shall not be obliged to maintain, acquire or process additional information in order to identify the data subject for the sole purpose of complying with these Rules.

(2) Where, in cases referred to in paragraph 1, the controller is able to demonstrate that it is not in a position to identify the data subject, the controller shall inform the data subject accordingly, if possible. In such cases, Articles 18 to 22 shall not apply except where the data subject, for the purpose of exercising his or her rights under those articles, provides additional information enabling his or her identification. The controller shall not refuse to take additional information provided by the data subject in order to support the exercise of his or her rights.

Article 14
Safeguards relating to processing for archiving purposes in the legitimate exercise of the official authority vested in the controller, scientific or historical research purposes or statistical purposes

Processing for archiving purposes in the legitimate exercise of the official authority vested in the controller, scientific or historical research purposes or statistical purposes, shall be subject to appropriate safeguards, in accordance with these Rules, for the rights and freedoms of the data subject. Those safeguards shall ensure that technical and organisational measures are in place in particular in order to ensure respect for the principle of data minimisation. Those measures may include pseudonymisation provided that those purposes can be fulfilled in that manner. Where those purposes can be fulfilled by further processing which does not permit or no longer permits the identification of data subjects, those purposes shall be fulfilled in that manner.

III. Rights of the data subject

Article 15
Transparency and modalities for the exercise of the rights of the data subject

(1) The controller shall take appropriate measures to provide the data subject with any information referred to in Articles 16 and 17 and any communication referred to in Articles 18 to 24 and Article 34 relating to processing of personal data in a concise, transparent, intelligible and easily accessible form, using clear and plain language. The information is to be provided in writing or by other means, including, where appropriate, electronic means. When requested by the data subject, the information may be provided orally, provided that the identity of the data subject is proven by other means.

(2) The controller shall facilitate the exercise of data subject rights under Articles 18 to 24. The controller shall provide data subjects with information on measures taken on a request under Articles 18 to 24 without undue delay and in any event within one month of receipt of the request. The controller, acting in consultation with the Data Protection Officer, may extend that period by two further months where necessary in view of the complexity and number of requests. If such an extension of the standard time limit is needed, the controller shall duly notify the data subject of the extension and the reasons for the delay within one month of the Office's receipt of the request. Where the data subject makes the request by electronic means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

(3) If the controller does not take action on the request of the data subject, the controller shall inform the data subject without delay and at the latest within one month of receipt of the request of the reasons for not taking action and of the possibility of filing a request for review and seeking legal redress under Articles 49 and 50.

(4) Information provided under Articles 16 and 17 and any communication issued and actions taken under Articles 18 to 24 and 34 shall be free of charge. Where requests from a data subject are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may refuse to act on the request.

(5) Where the controller has reasonable doubts concerning the identity of the natural person making a request under Articles 18 to 24, the controller may request the provision of additional information necessary to confirm the identity of the data subject.

(6) The information to be provided to data subjects pursuant to Articles 16 and 17 may be provided in combination with standardised icons in order to give in an easily visible, intelligible and clearly legible manner a meaningful overview of the intended processing. Where the icons are presented electronically, they shall be machinereadable.

Article 16
Information to be provided where personal data are collected from the data subject

(1) Where personal data relating to a data subject are collected from the data subject, the controller shall, at the time when personal data are obtained, provide the data subject with all of the following information:

a. the identity and the contact details of the controller;
b. the contact details of the Data Protection Officer;
c. the purposes of the processing for which the personal data are intended as well as the legal basis for the processing;
d. the recipients or categories of recipients of the personal data, if any;

e. where applicable, the fact that the controller intends to transfer personal data to recipients under Article 9 and reference to the appropriate or suitable safeguards and the means by which to obtain a copy of them or where they have been made available.

(2) In addition to the information referred to in paragraph 1, the controller shall, at the time when personal data are obtained, provide the data subject with the following further information necessary to ensure fair and transparent processing:

a. the period for which the personal data will be stored or, if that is not possible, the criteria used to determine that period;
b. the existence of the right to request from the controller access to and rectification or erasure of personal data or restriction of processing concerning the data subject or, where applicable, the right to object to processing or the right to data portability;
c. where the processing is based on Article 5(d) or Article 11(2)(a), the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;
d. the right to request review by the delegated controller under Article 49 and the right to seek legal redress under Article 50;
e. whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and the possible consequences of a failure to provide such data;
f. the existence of automated decision-making, including profiling, referred to in Article 24(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

(3) Where the delegated controller intends to further process the personal data for a purpose other than that for which the personal data were collected, the delegated controller shall provide the data subject with information on that other purpose and with any relevant further information referred to in paragraph 2 prior to that further processing.

(4) Paragraphs 1, 2 and 3 do not apply where and in so far as the data subject already has the information.

Article 17
Information to be provided where personal data have not been obtained from the data subject

(1) Where personal data have not been obtained from the data subject, the controller shall, at the time when personal data are obtained and in addition to the information to be provided under Article 16, provide the data subject with information on the categories of personal data concerned and the source of the personal data and, if applicable, whether they came from publicly accessible sources.

(2) In addition to the information referred to in paragraph 1, the controller shall provide the data subject with the following further information necessary to ensure fair and transparent processing in respect of the data subject:

a. the period for which the personal data will be stored or, if that is not possible, the criteria used to determine that period;

b. the existence of the right to request from the controller access to and rectification or erasure of personal data or restriction of processing concerning the data subject or, where applicable, the right to object to processing or the right to data portability;

c. where the processing is based on Article 5(d) or Article 11(2)(a), the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;

d. the right to request review by the delegated controller under Article 49 and the right to seek legal redress under Article 50;

e. from which source the personal data originate, and if applicable, whether they came from publicly accessible sources;

f. the existence of automated decision-making, including profiling, referred to in Article 24(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

(3) The controller shall provide the data subject with the information referred to in paragraphs 1 and 2:

a. within a reasonable period after obtaining the personal data, but at the latest within one month, having regard to the specific circumstances in which the personal data are processed,

b. if the personal data are to be used for communication with the data subject, at the latest at the time of the first communication to that data subject, or

c. if a disclosure to another recipient is envisaged, at the latest when the personal data are first disclosed.

(4) Where the controller intends to further process the personal data for a purpose other than that for which the personal data were obtained, the controller shall provide the data subject prior to that further processing with information on that other purpose and with any relevant further information as referred to in paragraph 2.

(5) Paragraphs 1 to 4 shall not apply where and insofar as:

a. the data subject already has the information;

b. the provision of such information proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the legitimate exercise of the official authority vested in the controller, scientific or historical research purposes or statistical purposes or in so far as the obligation referred to in paragraph 1 is likely to

render impossible or seriously impair the achievement of the objectives of that processing;

c. obtaining or disclosure is expressly laid down in the European Patent Convention and/or other applicable legal provisions of the European Patent Organisation which provide appropriate measures to protect the data subject's legitimate interests; or

d. the personal data must remain confidential subject to an obligation of professional secrecy regulated on the basis of the European Patent Convention and/or other applicable legal provisions of the European Patent Organisation, including a statutory obligation of secrecy.

Article 18
Rights of access by the data subjects

(1) The data subject has the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed and, if so, to access the personal data easily and at reasonable intervals, to understand which data about him or her are processed, to verify the quality of his or her personal data, to verify the lawfulness of their processing and to exercise his or her other data protection rights and be provided with the following information:

a. the purposes of the processing;

b. the categories of personal data concerned;

c. the recipients or categories of recipient to which the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;

d. where possible, the envisaged period for which the personal data will be stored or, if not possible, the criteria used to determine that period;

e. the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;

f. the right to request review by the delegated controller under Article 49 and to seek legal redress under Article 50;

g. where the personal data are not collected from the data subject, any available information as to their source;

h. the existence of automated decision-making, including profiling referred to in Article 24(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

(2) Where personal data are transferred in accordance with Article 9, the data subject has the right to be informed of the appropriate safeguards pursuant to the same Article put in place for the transfer.

(3) The right of the data subject to access his or her own personal data does not entitle the data subject to an indiscriminate right to access all documents. The controller shall grant access to the data subject to the fullest extent possible unless a restriction under Article 25 applies. The controller shall provide a copy in an intelligible form of the data undergoing processing

and of all available information (of any kind, regardless of its nature (objective or subjective), content (including any type of activity undertaken), or format (paper file, computer records, emails)). If necessary to safeguard the confidentiality of the Office's deliberations and decision-making, certain information may be deleted from the copy provided to the data subject. Where the data subject makes the request by electronic means, and unless otherwise requested by the data subject, the information shall be provided in a commonly used electronic form.

(4) Where the controller processes a large quantity of information concerning the data subject, the controller is able to request that, before the information is delivered, the data subject specifies the information or processing activities to which the request relates.

(5) The right to obtain a copy referred to in paragraph 3 shall not adversely affect the rights and freedoms of others.

Article 19
Right to rectification

(1) The data subject has the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her. Taking into account the purposes of the processing, the data subject has the right to have incomplete personal data completed, including by means of providing a supplementary statement.

(2) The right of rectification only applies to objective and factual data, e.g. identification data, which can be rectified at any time during a procedure or identification data linked to an administrative management system. It does not apply to subjective statements, including those made by third parties. However, in such cases, the data subject shall be permitted to complement existing data with a second opinion or counter-expertise or to provide comments.

(3) The controller shall communicate any rectification of personal data carried out in accordance with paragraph 1 to each recipient to whom the personal data have been disclosed, unless this proves impossible or involves disproportionate effort. The controller shall inform the data subject about those recipients if the data subject requests it.

Article 20
Right to erasure ("right to be forgotten")

(1) The data subject has the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller is obliged to erase personal data without undue delay where one of the following grounds applies:

a. the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;

b. the data subject withdraws the consent on which the processing is based under Article 5(d) or Article 11(2)(a) and there is no other legal ground for the processing;
c. the data subject objects to the processing pursuant to Article 23(1) and there are no overriding legitimate grounds for the processing;
d. the personal data were unlawfully processed;
e. the personal data have to be erased for compliance with a legal obligation to which the controller is subject;
f. the personal data have been collected in relation to the offer of information society services referred to in Article 7(8).

(2) Where the controller has made the personal data public and is obliged pursuant to paragraph 1 to erase the personal data, the controller, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data.

(3) Paragraphs 1 and 2 do not apply to the extent that processing is necessary:

a. for exercising the right of freedom of expression and information;
b. for compliance with a legal obligation to which the controller is subject or for the performance of a task carried out in reason of obligations arising from the Office's duty of co-operation with the contracting states or in the exercise of official authority vested in the controller;
c. for reasons of co-operation with the contracting states in the area of public health in accordance with Article 11;
d. for archiving purposes in the legitimate exercise of the official activities of the European Patent Organisation, or of the official authority vested in the controller, which includes the processing necessary for its management and functioning, for scientific or historical research purposes or statistical purposes, in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing; or
e. for the establishment, exercise or defence of legal claims.

(4) The controller shall communicate any erasure of personal data carried out in accordance with paragraph 1 to each recipient to whom the personal data have been disclosed, unless this proves impossible or involves disproportionate effort. The controller shall inform the data subject about those recipients if the data subject requests it.

Article 21
Right to restriction of processing

(1) The data subject has the right to obtain from the controller restriction of processing where one of the following applies:

a. the accuracy of the personal data is contested by the data subject, for a period enabling the controller to verify the accuracy, including the completeness, of the personal data;
b. the processing is unlawful, and the data subject opposes the erasure of the personal data and requests the restriction of their use instead;
c. the controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise or defence of legal claims;
d. the data subject has objected to processing pursuant Article 23(1) pending the verification whether the legitimate grounds of the controller override those of the data subject.

(2) Where processing has been restricted under paragraph 1, the personal data may, with the exception of storage, only be processed with the data subject's explicit consent or for the establishment, exercise or defence of legal claims or for the protection of the rights of another natural or legal person or for the performance of a task carried out in the exercise of the official activities of the European Patent Organisation or in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and functioning.

(3) A data subject who has obtained restriction of processing pursuant to paragraph 1 shall be informed by the controller before the restriction of processing is lifted.

(4) In automated filing systems restriction of processing shall as a rule be ensured by technical means. The fact that the processing of the personal data is restricted shall be indicated in the system in such a way that it is clear that the personal data shall not be used.

(5) The controller shall communicate any restriction of processing carried out in accordance with paragraphs 1 to 4 to each recipient to whom the personal data have been disclosed, unless this proves impossible or involves disproportionate effort. The controller shall inform the data subject about those recipients if the data subject requests it.

Article 22
Right to data portability

(1) The data subject has the right to receive, in a structured, commonly used and machine-readable format, the personal data concerning him or her which he or she has provided to the controller and the right to transmit those data to another controller without hindrance from the controller to which the personal data were initially provided where:

a. the processing is based on consent pursuant to Article 5(d) or Article 11(2)(a) or on a contract pursuant to Article 5(c); and
b. the processing is carried out by automated means.

(2) In exercising his or her right to data portability pursuant to paragraph 1, the data subject has the right to have the personal data transmitted directly from one controller to another where technically feasible.

(3) The exercise of the right referred to in paragraph 1 is without prejudice to Article 20. That right does not apply to processing necessary for the performance of a task carried out in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the management and functioning of the Office.

(4) The right referred to in paragraph 1 shall not adversely affect the rights and freedoms of others.

Article 23
The right of the data subject to object

(1) The data subject has the right to object, on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her which is based on Article 5(a), including profiling based on that provision. The controller shall cease to process the personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims.

(2) At the latest at the time of the first communication with the data subject, the right referred to in paragraph 1 shall be explicitly brought to the attention of the data subject and presented clearly and separately from any other information.

(3) Without prejudice to Articles 35 and 36, in the context of the use of information society services the data subject may exercise his or her right to object by automated means using technical specifications.

(4) Where personal data are processed for scientific or historical research purposes or statistical purposes, the data subject has the right to object, on grounds relating to his or her particular situation, to processing of personal data concerning him or her unless the processing is necessary for the performance of a task carried out in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and functioning.

Article 24
Automated individual decision-making, including profiling

(1) The data subject has the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning or similarly significantly affecting him or her.

(2) Paragraph 1 does not apply if the decision:

a. is necessary for entering into, or performance of, a contract between the data subject and the controller;

b. is authorised by a legal act adopted on the basis of the European Patent Convention or other applicable legal provisions of the European Patent Organisation and also laying down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests; or
c. is based on the data subject's explicit consent.

(3) In the cases referred to in paragraph 2(a) and (c), the controller shall implement suitable measures to safeguard the data subject's rights and freedoms and legitimate interests, including at least the right to obtain human intervention on the part of the controller, to express his or her point of view and to contest the decision.

(4) Decisions referred to in paragraph 2 shall not be based on special categories of personal data referred to in Article 11(1), unless Article 11(2)(a) or (f) applies and suitable measures to safeguard the data subject's rights and freedoms and legitimate interests are in place.

Article 25
Restriction of rights

(1) Specific legal provisions may restrict the application of Articles 15 to 22, 34 and 35, as well as of Article 4 in so far as its provisions correspond to the rights and obligations provided for in Articles 15 to 22, when such a restriction respects the essence of the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard:

a. the European Patent Organisation's security, public security or defence of the contracting states;
b. the prevention, investigation, detection and prosecution of criminal offences or the enforcement of criminal penalties, including the safeguarding against and the prevention of threats to public security and including cases in which Article 20 of the Protocol of Privileges and Immunities is applied;
c. other substantial interests of the European Patent Organisation pertaining to its core mission, or in reason of obligations arising from the duty of co-operation with the contracting states, including monetary, budgetary and taxation matters, public health and social security;
d. the internal security of the Office, including of its electronic communications networks;
e. the protection of judicial and quasi-judicial independence and judicial and quasi-judicial proceedings;
f. the prevention, investigation, detection and sanction of breaches of ethics for regulated professions;
g. a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority;
h. the protection of the data subject or the rights and freedoms of others;
i. the enforcement of civil law claims.

(2) In particular, any such specific legal provision of the European Patent Organisation within the meaning of paragraph 1 shall contain specific provisions, where relevant, as to:

a. the purposes of the processing or categories of processing;
b. the categories of personal data;
c. the scope of the restrictions introduced;
d. the safeguards to prevent abuse or unlawful access or transfer;
e. the specification of the controller or categories of controllers;
f. the storage periods and the applicable safeguards, taking into account the nature, scope and purposes of the processing or categories of processing; and
g. the risks to the rights and freedoms of data subjects.

(3) The restrictions are subject to following limits:

a. The provisions on the basis of which the restrictions referred to in paragraph 1 take place shall be clear and precise and intended to produce legal effects vis-à-vis data subjects. They shall be adopted at least at the level of the President of the Office. When the President of the Boards of Appeal is the controller, they shall be adopted at least at the level of the President of the Boards of Appeal. In both cases, they shall be submitted to the Administrative Council for information. On the basis of these provisions, each time a delegated controller needs to impose a restriction it shall first carry out a duly documented "necessity and proportionality test". The Data Protection Officer shall be involved in the "proportionality and necessity test assessment note" and the subsequent reviews and shall keep a register listing all decisions allowing delegated controllers to apply restrictions.
b. If a restriction is imposed pursuant to paragraph 1, the data subject shall be informed of the principal reasons on which the application of the restriction is based and of his or her right to submit a request to the Data Protection Officer under Article 43(2) and/or of the possibility of filing a request for review by the delegated controller and seeking legal redress under Articles 49 and 50.
c. If a restriction imposed pursuant to paragraph 1 is relied upon to deny access to the data subject, the Data Protection Officer and/or the entities involved in the request for review by the delegated controller and in the proceedings for legal redress shall, when investigating the request, only inform him or her whether the data have been processed correctly and, if not, whether any necessary corrections have been made.

(4) Provision of the information referred to in paragraphs 3(b) and (c) and in Article 43(2) may be deferred, omitted or denied if it would cancel the effect of the restriction imposed pursuant to paragraph 1.

IV. Controller and processor

Article 26
Responsibility of the controller

(1) Taking into account the nature, scope, context and purposes of processing and the varying likelihood and severity of any risks for the rights and freedoms of natural persons, the controller shall implement appropriate technical and organisational measures to ensure and to be able to demonstrate that processing is performed in accordance with these Rules. Those measures shall be reviewed and updated where necessary.

(2) Where proportionate in relation to processing activities, the measures referred to in paragraph 1 shall include the implementation of appropriate data protection policies by the controller.

(3) Adherence to approved certification mechanisms may serve as evidence of compliance with the obligations of the controller.

Article 27
Data protection by design and by default

(1) Taking into account the state of the art, the cost of implementation and the nature, scope, context and purposes of processing and the varying likelihood and severity of any risks for rights and freedoms of natural persons posed by the processing, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself ("by design"), implement appropriate technical and organisational measures which are designed to implement the data protection principles outlined in Article 4 and to integrate the necessary safeguards into the processing in order to meet the requirements of these Rules.

(2) The controller shall implement appropriate technical and organisational measures for ensuring that, by default, only personal data which are necessary for each specific purpose of the processing are processed. That obligation applies to the amount of personal data collected, the extent of their processing, the period of their storage and their accessibility. In particular, such measures shall ensure that, by default, personal data are not made accessible to an indefinite number of natural persons without the individual's intervention.

(3) A certification mechanism may serve as evidence of compliance with the requirements set out in paragraphs 1 and 2.

Article 28
Controller and delegated controllers

(1) The President of the Office acts as the controller of the personal data processed by the Office, unless otherwise specified.

(2) The President of the Boards of Appeal acts as the controller with regard to the personal data processing operations carried out as part of the judicial activity of the Boards of Appeal and in the exercise of functions and powers under the Act of Delegation. With regard to the personal data processing operations carried out by the Boards of Appeal Unit in the context of all other activities, the President of the Boards of Appeal acts as a delegated controller.

(3) The controller is free to delegate the competence of determining the purposes and means of processing certain personal data to an operational unit.

(4) Delegated controllers may not sub-delegate the controllership unless a specific unit's functional independence might otherwise be jeopardised or its size exceptionally requires a sub-delegation to a lower hierarchical level and the Data Protection Officer authorises it. The requisite act of sub-delegation or its withdrawal is valid only if the Data Protection Officer has been notified of it.

Article 29
Joint controllers

(1) Where the controller together with one or more controllers outside the Office jointly determine the purposes and means of processing, they will be joint controllers. Joint controllers shall determine, in a transparent manner, their respective responsibilities for compliance with their data protection obligations, in particular as regards the exercising of the rights of the data subject and their respective duties to provide the information referred to in Articles 16 to 24, by means of an arrangement between them. The arrangement may designate a contact point for data subjects.

(2) The arrangement referred to in paragraph 1 shall duly reflect the respective roles and relationships of the joint controllers vis-à-vis the data subjects. The essence of the arrangement shall be made available to the data subject as further specified in the operational documents.

(3) Irrespective of the terms of the arrangement referred to in paragraph 2, the data subject may request exercise of his or her rights under these Rules in respect of, and enforce these rights against, each of the controllers.

Article 30
Processor

(1) Where processing is to be carried out on behalf of the controller, the controller shall use only processors providing sufficient guarantees that appropriate technical and organisational measures will be implemented in such a manner that processing will meet the requirements of these Rules and ensure the protection of the rights of the data subject.

(2) The processor shall not engage another processor without prior specific or general written authorisation from the controller. In the case of general

written authorisation, the processor shall inform the controller of any intended changes concerning the addition or replacement of other processors, thereby giving the controller the opportunity to object to such changes.

(3) Processing by a processor shall be governed by a contract or legal act, adopted on the basis of the applicable legal provisions of the European Patent Organisation, which is binding on the processor with regard to the controller and sets out the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects and the obligations and rights of the controller. That contract or other legal act shall stipulate, in particular, that the processor:

a. processes the personal data only on documented instructions from the controller, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by the law to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
b. ensures that persons authorised to process the personal data have undertaken to maintain confidentiality or are under an appropriate statutory obligation of confidentiality;
c. takes all appropriate technical and organisational measures to ensure a level of security appropriate to the risk;
d. respects the conditions referred to in paragraphs 2 and 4 for engaging another processor;
e. taking into account the nature of the processing, assists the controller, as far as possible, by appropriate technical and organisational measures to fulfil the controller's obligation to respond to requests for exercising the data subject's rights laid down in these Rules;
f. assists the controller in ensuring compliance with its obligations, taking into account the nature of processing and the information available to the processor;
g. at the choice of the controller, deletes or returns all the personal data to the controller after the end of the provision of services relating to processing, and deletes existing copies unless the applicable law requires storage of the personal data and the Office agrees to such storage;
h. makes available to the controller all information necessary to demonstrate compliance with the obligations laid down in this Article and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller.

With regard to point (h) above, the processor shall immediately inform the controller if, in its opinion, an instruction infringes these Rules.

(4) Where a processor engages another processor to carry out specific processing activities on behalf of the controller, the same data protection obligations as set out in the legal act or contract between the controller and the processor referred to in paragraph 3 shall be imposed on that other processor by

way of a contract or other legal instrument, in particular as regards providing sufficient guarantees that appropriate technical and organisational measures will be implemented in such a manner that the processing will meet the requirements of these Rules. Where that other processor fails to fulfil its data protection obligations, the initial processor will remain fully liable to the controller for the performance of that other processor's obligations.

(5) Adherence of the processor to an approved code of conduct or an approved certification mechanism may serve as evidence of sufficient guarantees as referred to in paragraphs 1 and 4. A list of the codes of conducts and certification mechanisms approved by the Office will be published.

(6) Without prejudice to any individual contract between the controller and the processor, the contract or the other legal act referred to in paragraphs 3 and 4 may be based, in whole or in part, on standard contractual clauses referred to in paragraphs 7 and 8, including when they are part of a certification granted to the processor.

(7) The Office may lay down standard contractual clauses for the matters referred to in paragraph 3 and 4 or approve standard contractual clauses adopted by other institutions.

(8) The contract or the other legal act referred to in paragraphs 3 and 4 shall be in writing, which may also take electronic form.

(9) Without prejudice to Article 52, if a processor infringes these Rules by determining the purposes and means of processing, the processor will be considered to be a controller in respect of that processing.

Article 31
Processing under the authority of the controller or processor

The processor and any person acting under the authority of the controller or the processor who has access to personal data shall not process those data except on instructions from the controller, unless required to do so by the law to which the processor is subject.

Article 32
Records of processing activities

(1) Each controller shall maintain a record of processing activities under its responsibility. That record shall contain all of the following information:

a. the name and contact details of the controller and/or the delegated controller, the Data Protection Officer and, where applicable, the processor and the joint controller;
b. the purposes of the processing;
c. a description of the categories of data subjects and of the categories of personal data;

d. the categories of recipients to which the personal data have been or will be disclosed, including recipients in third countries or other international organisations;
e. where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and the documentation of suitable safeguards;
f. where possible, the envisaged time limits for erasure of the different categories of data;
g. where possible, a general description of the technical and organisational security measures referred to in Article 33.

(2) Each processor shall maintain a record of all categories of processing activities carried out on behalf of the controller which contains:

a. the names and contact details of the processor or processors, each controller on behalf of which the processor is acting and the Data Protection Officer;
b. the categories of processing carried out on behalf of each controller;
c. where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and the documentation of suitable safeguards;
d. where possible, a general description of the technical and organisational security measures referred to in Article 33.

(3) The records referred to in paragraphs 1 and 2 shall be in writing, which may also take electronic form.

(4) The Office shall make its records available to the Data Protection Board on request.

(5) The Office's records of processing activities will be kept in a central register.

(6) The central register will be made publicly accessible, save for any confidential records.

V. Confidentiality and security of processing

Article 33
Confidentiality and security of processing

(1) Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the varying likelihood and severity of any risks for the rights and freedoms of natural persons, the controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including, as appropriate:

a. the pseudonymisation and encryption of personal data;
b. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
c. the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
d. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.

(2) In assessing the appropriate level of security, account shall be taken in particular of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

(3) The controller and processor shall take steps to ensure that any natural person acting on behalf of the controller or the processor who has access to personal data does not process them except on instructions from the controller, unless required to do so by the law to which he or she is subject. This exemption does not apply to persons covered by Article 1 of the Service Regulations.

(4) Specific requirements as to data security will be laid down in the operational documents. Adherence to an approved certification mechanism may serve as evidence of compliance with the requirements set out in paragraph 1.

Article 34
Notification and communication of a personal data breach

(1) In the case of a personal data breach, the controller shall, without undue delay and, where feasible, no later than 72 hours after having become aware of it, notify the Data Protection Officer of this personal data breach unless it is unlikely to result in a risk to the rights and freedoms of natural persons. Where the notification does not take place within 72 hours, it shall be accompanied by reasons for the delay.

(2) The processor shall notify the controller without undue delay after becoming aware of a personal data breach.

(3) The notification referred to in paragraph 1 shall at least:

a. describe the nature of the personal data breach, including, where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
b. describe the likely consequences of the personal data breach;
c. describe the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

(4) Where, and in so far as, it is not possible to provide details of the breach at the same time, this information may be provided in phases but this shall be done without undue further delay.

(5) The controller shall document any personal data breaches, including the facts relating to the personal data breach, its effects and the remedial action taken. That documentation shall enable the Data Protection Officer to verify compliance with this Article.

(6) When the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall communicate the personal data breach to the data subject without delay. The communication to the data subject shall describe the nature of the personal data breach in clear and plain language.

(7) Details of the complete information to be provided in the notification under paragraph 1 and in the communication under paragraph 6 will be specified in the operational documents.

(8) No communication to the data subject is required if any of the following conditions are met:

(i) the controller has implemented appropriate technical and organisational measures, and those measures have been applied to the personal data affected by the personal data breach, in particular those that render the personal data unintelligible to any person who is not authorised to access it, such as encryption;
(ii) the controller has taken subsequent measures which ensure that the high risk to the rights and freedoms of data subjects is no longer likely to materialise;
(iii) it would involve disproportionate effort, in which case there shall instead be a public communication or similar measure whereby the data subjects are informed in an equally effective manner.

(9) If the controller has not already communicated the personal data breach to the data subject, the Data Protection Officer, having considered the likelihood of the personal data breach resulting in a high risk, may require it to do so or may decide that any of the conditions referred to in paragraph 8 are met.

Article 35
Confidentiality of electronic communications

The Office shall ensure the confidentiality of electronic communications, in particular by securing its electronic communications networks.

Article 36
Protection of information transmitted to, stored in, related to, processed by and collected from users' terminal equipment

The Office shall protect the information transmitted to, stored in, related to, processed by and collected from the terminal equipment of users accessing its publicly available websites and mobile applications.

Article 37
Directories of users

(1) Personal data contained in directories of users and access to such directories shall be limited to what is strictly necessary for the specific purposes of the directory.

(2) The Office shall take all the necessary measures to prevent personal data contained in those directories from being used for direct marketing purposes, regardless of whether they are accessible to the public or not.

Article 38
Data protection impact assessment and prior consultation

(1) Where a type of processing, including the setting up or substantial alteration of any files and any automated processing of personal data, is likely to result in a high risk to the rights and freedoms of the data subject by virtue of its context, nature, scope or purpose, the controller shall, prior to the processing, carry out an objective assessment of the impact of the envisaged processing operations on the protection of personal data.

(2) The controller will seek the advice of the Data Protection Officer on the need for a data protection impact assessment and when carrying out any such an assessment. In cases of doubt, the controller will, upon recommendation of the Data Protection Officer, consult the Data Protection Board on the need for a data protection impact assessment and request its opinion.

(3) High risks to the rights and freedoms of data subjects within the meaning of paragraph 1 and the minimum content required in the data protection impact assessment will be defined and further specified in the operational documents.

(4) A data protection impact assessment within the meaning of paragraph 1 is, in particular, required in the case of:

   a. a systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, including profiling, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person;

b. processing on a large scale of special categories of data referred to in Article 11 or of personal data relating to criminal convictions and offences referred to in Article 12; or
c. a systematic monitoring of a publicly accessible area on a large scale.

(5) The Data Protection Board will draw up a list of the kinds of processing operation subject to the requirement of a data protection impact assessment pursuant to paragraph 1. This list will be part of the operational documents. It may also draw up a list of the kinds of processing operation for which no data protection impact assessment is required.

(6) In accordance with Article 39, the controller will consult the Data Protection Board prior to processing where a data protection impact assessment indicates that the processing would result in a high risk to the rights and freedoms of natural persons and the controller is of the opinion that the risk cannot be mitigated by reasonable security measures as defined in Article 33. The controller will first seek the advice of the Data Protection Officer on the need for prior consultation.

(7) Where the Data Protection Board is of the opinion that the intended processing referred to in paragraph 1 would infringe these Rules, in particular where the controller has insufficiently identified or mitigated the risk, the Data Protection Board will, within a period of up to eight weeks from receipt of the request for consultation, provide the controller and, where applicable, the processor with written advice.

(8) The assessment shall contain at least:

a. a systematic description of the envisaged processing operations and the purposes of the processing;
b. an assessment of the need for and proportionality of the processing operations in relation to the purposes;
c. an assessment of the risks to the rights and freedoms of data subjects referred to in paragraph 1; and
d. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with these Rules, taking into account the rights and legitimate interests of data subjects and other persons concerned.

(9) Compliance with approved codes of conduct by the relevant processors shall be duly taken into account in assessing the impact of the processing operations performed by such processors, in particular for the purposes of a data protection impact assessment.

(10) Where appropriate, the controller shall seek the views of data subjects or their representatives on the intended processing, without prejudice to the protection of the Office's interests or the security of processing operations.

(11) Where processing pursuant to Article 5(a) or (b) has a legal basis in a legal act adopted on the basis of the European Patent Convention which regulates

the specific processing operation or set of operations in question, and where a data protection impact assessment has already been carried out as part of a general impact assessment preceding the adoption of that legal act, paragraphs 1 to 7 will not apply unless that legal act provides otherwise.

(12) Where necessary, the controller will carry out a regular review to assess whether processing is performed in accordance with the data protection impact assessment, at least when there is a change in the risk represented by processing operations in question.

Article 39
Prior consultation of the Data Protection Board

(1) The controller shall consult the Data Protection Board prior to processing where a data protection impact assessment under Article 38 indicates that, in the absence of safeguards, security measures and mechanisms to mitigate the risk, the processing would result in a high risk to the rights and freedoms of natural persons but the controller is of the opinion that the risk cannot be mitigated by reasonable means in view of the available technologies and costs of implementation. The controller shall seek the advice of the Data Protection Officer on the need for prior consultation.

(2) Where the Data Protection Board is of the opinion that the intended processing referred to in paragraph 1 would infringe these Rules, in particular where the controller has insufficiently identified or mitigated the risk, the Data Protection Board shall, within a period of up to eight weeks from receipt of the request for consultation, provide the controller and, where applicable, the processor with written advice and may use any of its powers referred to in Article 47. That period may be extended by six weeks, taking into account the complexity of the intended processing. The Data Protection Board shall inform the controller and, where applicable, the processor of any such extension and the reasons for the delay within one month of receipt of the request for consultation. Those periods may be suspended until the Data Protection Board has obtained information it has requested for the purposes of the consultation.

(3) When consulting the Data Protection Board pursuant to paragraph 1, the controller shall provide it with:

a. where applicable, the respective responsibilities of the controller, joint controllers and processors involved in the processing;
b. the purposes and means of the intended processing;
c. the measures and safeguards provided to protect the rights and freedoms of data subjects pursuant to these Rules;
d. the contact details of the Data Protection Officer;
e. the data protection impact assessment provided for in Article 38; and
f. any other information requested by the Data Protection Board.

VI. Information and consultation

Article 40
Information and consultation of the Data Protection Officer

(1) The controller shall inform the Data Protection Officer when drawing up administrative measures and internal rules relating to the processing of personal data, whether alone or jointly with others.

(2) The controller shall consult the Data Protection Officer when drawing up rules or operational documents related to the implementation of the provisions referred to in Article 25.

VII. Institutional provisions

Article 41
Appointment of the Data Protection Officer

The Data Protection Officer and his or her deputies are appointed by the President of the Office on the basis of their professional qualifications and, in particular, their expert knowledge of data protection law and practices and their ability to fulfil the duties referred to in Articles 43 and 44. The Office will publish their contact details and communicate them to the Data Protection Board.

Article 42
Position of the Data Protection Officer

(1) The Office shall ensure that the Data Protection Officer is involved, properly and in a timely manner, in all issues which relate to the protection of personal data.

(2) The Office shall support the Data Protection Officer in performing the tasks referred to in Article 43 by providing the resources necessary to carry out those tasks, including access to personal data and processing operations, and to maintain his or her expert knowledge.

(3) The Office shall ensure that the Data Protection Officer does not receive any instructions regarding the exercise of those tasks. He or she cannot be dismissed or penalised by the controller or the processor for performing those tasks. The Data Protection Officer reports directly to the President of the Office. Where the proccessing operation is conducted under the organisational autonomy granted to the Boards of Appeal by the President of the Office by virtue of the Act of Delegation, the Data Protection Officer reports directly to the President of the Boards of Appeal.

(4) Data subjects may contact the Data Protection Officer with regard to all issues related to processing of their personal data and to the exercise of their rights under these Rules.

(5) The Data Protection Officer and his or her staff are bound by secrecy or confidentiality as regards the performance of their tasks, both for as long as they perform their functions and after they have ceased to perform them in accordance with the Service Regulations.

(6) The Data Protection Officer may fulfil other tasks and duties. The controller shall ensure that any such tasks and duties do not result in a conflict of interest.

(7) The Data Protection Officer may be consulted, also by informal means, by the controller and the processor and by any individual or any body set up under Article 2 of the Service Regulations on any matter concerning the interpretation or application of these Rules. No one is to suffer prejudice on account of bringing an alleged infringement of these Rules to the attention of the Data Protection Officer.

(8) The Data Protection Officer is appointed for a term of three to five years and eligible for re-appointment. The Data Protection Board shall be consulted prior to any removal of the Data Protection Officer from his or her role where, for example, the position holder no longer fulfils the conditions required for the performance of his or her duties and prior to any termination of his or her appointment as Data Protection Officer on the basis of the relevant provisions of the Service Regulations.

Article 43
Tasks of the Data Protection Officer

(1) The tasks of the Data Protection Officer are:

a. to inform the controller or the processor and the employees who carry out processing of their obligations pursuant to these Rules and to advise them accordingly;
b. to monitor in an independent manner the internal application of and the compliance with these Rules, other legal provisions of the European Patent Organisation having data protection implications and the policies of the controller or processor in relation to the protection of personal data, including the assignment of responsibilities;
c. to raise awareness among and provide training for staff involved in processing operations;
d. to carry out data protection audits and investigations;
e. to ensure that data subjects are informed of their rights and obligations pursuant to these Rules;
f. to provide advice where requested as regards the need to communicate a personal data breach pursuant to Article 34;
g. to provide advice where requested as regards the data protection impact assessment and monitor its performance pursuant to Article 38, and to consult the Data Protection Board in cases of doubt as to the need for a data protection impact assessment;
h. to provide advice where requested as regards the need for prior consultation of the Data Protection Board pursuant to Article 39;

i. to respond to requests from the Data Protection Board; within the sphere of his or her competence, to co-operate and consult with the Data Protection Board at its request or on his or her own initiative;

j. to facilitate the co-operation between the Data Protection Board and the Office, in particular with regard to data protection investigations, complaint handling, data protection impact assessments and prior consultations, duly informing the Data Protection Board of any recent developments likely to have an impact on the protection of personal data, and forwarding to the Data Protection Board information on new administrative measures and internal rules relating to the processing of personal data;

k. to establish, by way of monitoring, that the rights and freedoms of data subjects are not adversely affected by the Office's processing operations. As a rule, data subjects may at any time consult the Data Protection Officer and submit requests related to processing of their personal data by the Office or the interpretation and implementation of the Rules and it is initially for the Data Protection Officer to respond to such requests. This does not, however, prevent a data subject from using the possibilities of filing a request for review and seeking legal redress under Articles 49 and 50.

(2) The Data Protection Officer may make recommendations to the controller and the processor for the practical improvement of data protection and advise them on matters concerning the application of data protection provisions. Furthermore, he or she may, on his or her own initiative or at the request of the President, the delegated controller, the processor or any body set up under the legal provisions of the European Patent Organisation or of any individual concerned, investigate matters and occurrences directly relating to his or her tasks which come to his or her notice, and report back to the person who commissioned the data protection investigation or to the President of the Office, the delegated controller, the processor or the body set up under the legal provisions of the European Patent Organisation. Where matters and occurrences to be investigated concern the Boards of Appeal Unit, the Data Protection Officer may bring them to the attention of the President of the Boards of Appeal.

(3) The Data Protection Officer shall be informed whenever an issue is under consideration that has, or might have, data protection implications.

(4) If proceedings for the settlement of disputes under Articles 108 to 110a of the Service Regulations involve data protection aspects, the Data Protection Officer shall be consulted in accordance with the procedure provided for in Article 51.

(5) The Data Protection Officer shall have access at all times to the data forming the subject-matter of processing operations and to all offices, data-processing installations and data carriers.

(6) The Data Protection Officer may bring to the attention of the appointing authority any failure by an employee to comply with the obligations under

these Rules and, where appropriate, recommend that an administrative investigation be launched to establish whether any action needs to be taken in accordance with the Service Regulations. Where the employee in question is allocated to the Boards of Appeal Unit, the Data Protection Officer may also bring such a failure to comply with the obligations under these Rules to the attention of the President of the Boards of Appeal.

(7) The Data Protection Officer will submit an annual report to the Administrative Council, the President of the Office, and the President of the Boards of Appeal.

Article 44
Deputy Data Protection Officers

(1) The Deputy Data Protection Officers will support the Data Protection Officer in carrying out his or her tasks and duties and deputise in the event of his or her absence. The Deputy Data Protection Officers and any staff assisting the Data Protection Officer in relation to data protection issues will act solely on his or her instructions. The Deputy Data Protection Officers will be chosen in such a way as to ensure an adequate representation of the fields of expertise required in data protection matters.

(2) Article 42 (2), (5) and (8) applies *mutatis mutandis* to the Deputy Data Protection Officers.

(3) The Data Protection Officer may ask the Deputy Data Protection Officers to perform certain tasks independently.

Article 45
Data Protection Liaisons

(1) At least one Data Protection Liaison is to be appointed in each operational unit unless the delegated controller decides otherwise for operational reasons.

(2) The Data Protection Liaison's function can be combined with other functions as appropriate. To acquire the skills required to perform their function, Data Protection Liaisons will undergo compulsory training on data protection.

(3) Data Protection Liaisons will be appointed for a renewable term of one to three years. They will be chosen, at the appropriate hierarchical level, on the basis of their high professional ethics, their knowledge and experience of the workings of their operational unit and their motivation to perform the function.

(4) Without prejudice to the responsibilities of the Data Protection Officer or the controller, the Data Protection Liaisons will assist the controller in complying with its legal obligations.

Article 46
Obligation to provide assistance and information

Every employee and all operational units of the Office and bodies within the meaning of Article 2 of the Service Regulations are required to assist the Data Protection Officer, his or her Deputies and the Data Protection Liaisons in performing their duties. To enable the Data Protection Officer and, where appropriate, the Deputy Data Protection Officers to assess compliance with these Rules, they shall, at the Data Protection Officer's request, be:

a. given information in reply to questions and be allowed to inspect all documents and all data stored in files and any data processing programmes;

b. allowed access to all information, including personal data as well as processing operations, required to perform their tasks; and

c. given access at all times to all EPO offices, data-processing installations and data carriers.

Article 47
Data Protection Board

(1) The Data Protection Board has an oversight and advisory function and a function as part of the mechanism for legal redress under Article 50. It is responsible for:

a. monitoring, together with the Data Protection Officer, the application of these Rules and the operational documents to all data processing operations carried out by the Office;
b. requesting, where appropriate, co-operation from the delegated controllers and the controller in the performance of its tasks;
c. providing consultation for the President of the Office in cases of doubt on the adequacy of the protection afforded by a country or international organisation under Article 9(3);
d. overseeing the processing of data relating to criminal offences, criminal convictions or security measures under Article 5 where such processing is not covered by the legal provisions of the European Patent Organisation as provided in Article 12.

(2) Pursuant to Articles 38 and 39, the Data Protection Board:

a. issues an opinion on the need for a data protection impact assessment following a request from the controller;
b. draws up a list of the kinds of processing operation for which a data protection impact assessment is required and may draw up a list of the kinds of processing operation for which no data protection impact assessment is required;
c. provides consultation for the controller, upon a recommendation from the Data Protection Officer, prior to processing where a data protection impact assessment indicates that the processing would result in a high risk to the rights and freedoms of natural persons and the controller is

of the opinion that the risk cannot be mitigated by reasonable security measures as defined in Article 38(6).

d. provides written advice to the controller, and where applicable to the processor, where it is of the opinion that the intended processing referred to Article 38(6) would infringe these Rules, in particular where the controller has insufficiently identified or mitigated the risk.

(3) The Data Protection Board is responsible for:

a. advising under Article 42(8) on dismissal of the Data Protection Officer if he or she no longer fulfils the conditions required for the performance of his or her duties;

b. providing an opinion where a data subject makes use of the means of redress available under Article 50.

Article 48
Appointment and composition of the Data Protection Board

(1) The Data Protection Board is composed of three external experts in the field of data protection appointed by the President of the Office, namely a chair and two other members, one of whom acts as deputy chair. Two alternate members are to be appointed to replace these two other members if they are unable to act. The Chair may invite the Data Protection Officer or, exceptionally, other parties to the meetings of the Data Protection Board as observers.

(2) The chair, the two other members and the alternate members shall have the qualifications required for appointment to judicial office or be data protection professionals with proven expertise and experience in the area of data protection law acquired at national or international level. They shall not be Office employees in active service or have been employed by it within the past ten years.

(3) The chair, the other two members and the alternate members of the Data Protection Board enjoy the privileges and immunities conferred under Article 15 of the Protocol on Privileges and Immunities of the European Patent Organisation when exercising their duties as members of the Data Protection Board.

(4) The chair, the other two members and the alternate members are appointed for a renewable term of three years.

(5) The chair, the other two members and the alternate members of the Data Protection Board are bound by an obligation of confidentiality which continues indefinitely after their term comes to an end.

(6) The chair, the other two members and the alternate members of the Data Protection Board are completely independent in carrying out their functions. They shall not seek nor be bound by instructions from the Office or the Administrative Council.

(7) The chair, the other two members and the alternate members of the Data Protection Board shall refrain from acting in a case in which they have a conflict of interest, in particular a personal interest.

(8) Where the chair of the Data Protection Board is prevented from acting, he or she will be replaced by the deputy chair. A member of the Data Protection Board who is prevented from acting will be replaced by an alternate member nominated by the chair.

(9) In proceedings under Article 50, the Data Protection Board will be bound by separate rules of procedure adopted by the President after consultation of the President of the Boards of Appeal and submitted for information to the Administrative Council.

(10) The Office shall support the Data Protection Board in performing the tasks referred to in this Article by providing the resources necessary to carry out those tasks, the legal and administrative support of a Secretariat and access to personal data and processing operations.

Article 49
Request for review by the delegated controller

(1) Data subjects who consider that the processing by the Office of their personal data infringes their rights as a data subject under these Rules may request that the delegated controller review the matter and take a decision. The request shall be submitted no later than three months from the day on which the data subject was informed or otherwise became aware of the processing of personal data allegedly infringing his or her rights.

(2) Prior to taking any decision, the delegated controller shall consult the Data Protection Officer. The Data Protection Officer shall provide the delegated controller with a written opinion no later than 15 calendar days after receipt of the request for review. If the Data Protection Officer has not provided an opinion by the end of this period, it will no longer be required.

(3) The decision under paragraph 1 above shall be taken within one month of receipt of the request, and communicated to the data subject in writing, indicating the means of redress provided for in Article 50. This time limit may be extended by two further months where necessary, taking into account the complexity and number of the requests. If it is necessary to extend the standard time limit, the delegated controller shall duly notify the data subject of this and the reasons for the delay within one month of receipt of the request for review. If the controller or the delegated controller fails to take any action by the end of a period of three months, this will be deemed to be an implicit rejection of the request.

(4) A decision or implicit rejection by the delegated controller under this Article is a condition for filing a complaint with the Data Protection Board under Article 50.

Article 50
Legal redress

(1) Data subjects may challenge the decision taken under Article 49(1) by filing a complaint with the Data Protection Board within three months of receipt of the decision in accordance with Article 49(3) or, in the case of an implicit rejection, of the date of expiry of the time limit for replying to the request for review.

(2) When examining an objection filed by a data subject, the Data Protection Board shall invite the data subject, the delegated controller and, where applicable, the processor to set out in writing their position on the claims and facts at issue and to provide evidence or comments and arguments on evidence already at hand.

(3) After examining the objection, the evidence and any written input submitted by the data subject, the delegated controller and, where applicable, the processor, the Data Protection Board shall issue a reasoned opinion to the controller. If it finds that the Office's processing of the data subject's personal data was unlawful, it may recommend that compensation for material and/or non-material damage be awarded.

(4) The Data Protection Board shall communicate its reasoned opinion to the controller, which will then take a final decision. The controller will normally follow the Data Protection Board's opinion. If the controller decides not to follow the opinion, it shall set out in writing the reasons for deviating from it.

(5) When the President of the Boards of Appeal acts as the controller under the organisational autonomy granted by the Act of Delegation, he or she shall inform the President of the Office of his or her final decision. When the President of the Office takes a final decision on a complaint lodged with the Data Protection Board and concerning activities of the Boards of Appeal in which the President of the Boards of Appeal acts as the delegated controller, he or she shall inform the President of the Boards of Appeal.

(6) The controller shall notify the data subject, the delegated controller and, where applicable, the processor, as well as the Data Protection Officer, of the final decision and the conclusions of the Data Protection Board. A copy of the decision shall also be sent to the Data Protection Board.

(7) The persons covered by Article 1 of the Service Regulations may challenge the decision of the controller only before the Administrative Tribunal of the International Labour Organization under Article 113 of the Service Regulations.

(8) If data subjects not covered by Article 1 of the Service Regulations disagree with the decision taken by the controller, they may ask the President of the Office, within three months of receipt of the final decision under paragraph 6, for ad-hoc arbitration proceedings under Article 52 to resolve their dispute with the Office over the processing of their personal data.

(9) In cases in which the final decision challenged under paragraphs 7 and 8 of this Article was taken by the President of the Boards of Appeal, he or she shall be informed that the decision has been challenged.

Article 51
Incidental data protection request during internal appeal proceedings

(1) Where proceedings for the settlement of disputes under Articles 108 to 110a of the Service Regulations involve data protection aspects, the Data Protection Officer shall be consulted by the body under the Service Regulations advising the appointing authority before delivering its opinion or, at the latest, by the competent appointing authority before taking its decision.

(2) The Data Protection Officer shall deliver his or her opinion in writing no later than 15 calendar days after receipt of the request for consultation under paragraph 1. If the Data Protection Officer has not provided his or her opinion by the end of this period, it is no longer required.

(3) Where the Data Protection Officer's opinion has been requested during proceedings for the settlement of disputes under Articles 108 to 110a of the Service Regulations, the proceedings may be suspended for the time needed to provide that opinion but in any event for no longer than 15 calendar days.

(4) The appointing authority is not bound by the Data Protection Officer's opinion.

Article 52
Ad-hoc arbitration

(1) Any dispute, controversy or claim raised by a data subject not falling within the scope of application of Article 1 of the Service Regulations arising from a decision of the controller notified to the data subject in accordance with Article 50(6) shall be the subject of final and binding arbitration in accordance with the following procedure and to the exclusion of any other national or international jurisdiction.

(2) Within three months of receipt of the controller's final decision under Article 50(6), the data subject may request the President of the Office in writing to initiate the arbitration procedure set forth in these Rules.

(3) Within three months of receipt of such notification by the data subject, one arbitrator shall be appointed by the Secretary-General of the Permanent Court of Arbitration.

(4) The arbitrator shall be legally qualified, admitted to practise law in one of the contracting states and be able to demonstrate relevant expertise in data protection matters. He or she shall be familiar with the law governing international organisations. The arbitrator must not be or have been in or at the service of the Office or the data subject. He or she shall act independently

and impartially.

(5) The place of arbitration shall be The Hague (the Netherlands).

(6) The law governing the arbitration procedure shall be the European Patent Convention, these Rules, including any implementing legislation, the law of international organisations and the principles of public international law.

(7) The language of the proceedings shall be one of the official languages of the Office (English, French or German), as determined by the arbitrator.

(8) Subject to this Article, the arbitrator may conduct the arbitration as he or she sees fit, provided that the parties are treated equally and each party is given the opportunity of presenting his or her case at every stage of the proceedings.

(9) The arbitration proceedings are not public. The parties and the arbitrator shall treat the subject-matter of the proceedings confidentially. The arbitration award shall not be published.

(10) A settlement shall be concluded in the form of a written arbitration award with an agreed wording.

(11) The arbitrator shall fix the costs of arbitration in his or her award. The term "costs" includes the fees of the arbitrator, travel and other reasonable expenses incurred by the arbitrator, reasonable costs of expert advice required by the arbitrator and reasonable travel and other expenses of witnesses. The fees of the arbitrator shall be reasonable in amount, taking into account the complexity of the subject-matter, the time spent, the value of the dispute (if any) and other relevant circumstances of the case. Promptly after his or her appointment, the arbitrator shall inform the parties as to how he or she proposes to determine his or her fees and expenses. Within 15 calendar days of receiving that proposal, any party may refer the proposal to the Secretary-General of the Permanent Court of Arbitration for review. If the Secretary-General of the Permanent Court of Arbitration finds that the proposal is inconsistent with the principles of this paragraph, he or she shall make any necessary adjustments, which shall be binding upon the arbitrator.

(12) The arbitrator fixes the value of the dispute by exercising his or her reasonable discretion.

(13) The European Patent Organisation pays the arbitrator's fees and expenses, the cost of possible expert advice and witnesses. Each party pays his or her own costs for legal representation and expenses unless the arbitrator decides otherwise.

VIII. Final provisions

Article 53
Right to compensation

(1) Any person who proves that he or she has suffered damage as a result of an infringement of these Rules may request compensation from the Office using the means of redress offered under Articles 49 and 50.

(2) The controller or processor shall be exempt from liability under paragraph 1 if it proves that it was not responsible for the event giving rise to the damage.

Article 54
Sanctions

Any employee failing to comply with the obligations laid down in these Rules, whether intentionally or through negligence, may be liable to disciplinary or other action in accordance with the Service Regulations.

Article 55
Transitional provisions

(1) The data collected up to the entry into force of these Rules will be deemed to have been lawfully collected within the meaning of Article 4.

(2) Processing operations initiated after the adoption of these Rules shall comply with the requirements laid down in these Rules.

(3) Processing operations which are already ongoing on the date of the adoption of these Rules shall be brought into line with the requirements laid down in these Rules within six months of the entry into force of these Rules. In exceptional cases, for which due justification shall be presented, the Data Protection Officer may allow this time limit to be extended.

(4) The records for processing operations already entered in the Data Protection Register or covered by existing documents on the use of personal data shall be revised by the operational units concerned, brought into line with the new requirements and entered in the new central register within six months of the entry into force of these Rules.

(5) As to restriction of rights under Article 25: specific provisions will be adopted by the President of the Office, in consultation with the Data Protection Officer and the President of the Boards of Appeal, before entry into force of these Rules.

Article 56
Entry into force/Revision

(1) These Rules enter into force on 1 January 2022 and apply to any processing of personal data ongoing on or initiated after that date.

(2) These Rules should be reviewed no later than five years after they have entered into force.

Decision of the President of the European Patent Office of 16 December 2021 adopting the Rules of Procedure of the Data Protection Board

The President of the European Patent Office,

Having regard to Article 10(2)(a) of the European Patent Convention,

Having regard to decision CA/D 5/21 of the Administrative Council of 30 June 2021 introducing a new data protection framework at the European Patent Office adopting amendments to the Service Regulations for permanent and other employees of the European Patent Office and Implementing Rules for Articles 1b and 32a of the Service Regulations for permanent and other employees of the European Patent Office on the Protection of Personal Data (the “new Data Protection Framework”), which will enter into force on 1 January 2022,

Has decided as follows:

Article 1

The Rules of Procedure of the Data Protection Board, as contained in the Annex to this Decision, are hereby adopted.

Article 2

1. This Decision enters into force on 1 January 2022.
2. The Rules of Procedure of the Data Protection Board shall be reviewed no later than five years after they have entered into force.

Done at Munich, 16 December 2021.

António Campinos
President

ANNEX

Data Protection Board

Rules of Procedure

Article 1
Guiding principles

(1) In accordance with the principle of independence enshrined in Article 48(6) of the Implementing Rules to Articles 1b and 32a of the Service Regulations (Data Protection Rules), the Data Protection Board shall act impartially and in complete independence when performing its tasks or exercising its function.

(2) The Data Protection Board shall act as an expert, reliable and authoritative body in the field of data protection ensuring an appropriately informed decision-making process by the President.

(3) The Data Protection Board shall be organised and act collectively as a collegiate body and shall operate efficiently and as flexible as possible so to achieve internally the highest level of synergies among its members. It shall endeavour to operate where possible by consensus.

The Data Protection Board shall operate as openly as possible so as to be more effective and more accountable to the individual. The Data Protection Board shall explain its activities in a clear language which is accessible to all according to the principle of transparency.

(4) The Data Protection Board and its staff shall, both during and after their term of office, be bound to confidentiality with regard to any information which has come to their knowledge in the course of the performance of their official duties.

(5) The definitions included in the Data Protection Rules apply to these rules.

Article 2
Secretariat of the Board

Pursuant to Article 48(10) Data Protection Rules the EPO shall provide the Secretariat of the Data Protection Board, the task of which is to provide legal, administrative and logistical support to the Data Protection Board. The Secretariat shall perform its tasks independently from any undue interference and exclusively under the instructions of the Chair. The Secretariat staff shall be bound by confidentiality with regard to any information which has come to their knowledge in the course of the performance of their duties for the Data Protection Board.

Article 3
Complaint to the Data Protection Board

(1) Only the data subject whose data protection rights have allegedly been infringed is entitled to lodge a complaint to the Data Protection Board. The complainant may be represented or assisted by an external lawyer of his or her choice, on the basis of a valid power of attorney which shall be submitted with the complaint. The power of attorney shall bear the signature of the complainant, the date and the explicit reference to the issue for which it is issued. The Chair decides on the validity of the power of attorney.

(2) The complaint to the Data Protection Board shall be lodged by the complainant in electronic form in one of the three official languages of the Office. If the original documents are in a language that is not one of the EPO official languages, they shall be submitted with attached a translation in one of the EPO official languages.

(3) The complaint to the Data Protection Board shall bear the date and the signature of the complainant.

(4) The complaint to the Data Protection Board shall identify the processing operation that allegedly infringed the right(s) of the data subject, which right(s) of the data subject have allegedly been infringed, and shall be accompanied by supporting documentary evidence. In particular, the complainant shall submit:

(a) the request to the controller to take an individual decision;
(b) a summary description of the processing operation allegedly infringing his or her data protection rights which is challenged with the complaint;
(c) the request for review to the delegated controller; and
(d) the decision of the delegated controller on the outcome of the review or, in lack thereof, evidence that the request for review to the delegated controller has been duly submitted by the complainant and the deadline for issuing the decision has expired.

(5) The date used to determine whether the time limits have been complied with shall be that of dispatch of the complaint to the Secretariat of the Data Protection Board. In the event of doubt about the date of dispatch, the date used shall be that of receipt by the Data Protection Board.

(6) Any costs incurred by the complainant in the course of the proceedings before the Data Protection Board, in particular fees payable to the external lawyer to represent or assist him or her, shall be borne by the complainant, unless the President decides otherwise.

Article 4
Registration and handling of the complaint to the Data Protection Board

(1) Upon receipt of a complaint, the Secretariat shall inform the controller and the Chair without undue delay.

(2) Upon receipt of a complaint, the Secretariat shall open a case file, assign a registration number and inform the complainant accordingly within 10 calendar days from the date of receipt of the complaint.

(3) The Chair is responsible for deciding whether the file is complete. The Secretariat carries out the analysis on the completeness of the file on behalf and under the direction of the Chair. If the complaint contains deficiencies or irregularities of formal nature, the Secretariat shall advise the complainant and set a reasonable time limit, within which to correct those. If the complainant fails to put the complaint in order within the time limit prescribed, the Chair may decide to consider the complaint irreceivable in accordance with Article 5 of these Rules.

(4) Once the Chair has decided that the file is complete, the Secretariat on behalf of the Chair will refer the subject-matter to the members of the Data Protection Board without undue delay.

(5) The Data Protection Board shall decide how to handle a complaint taking into account:

(a) the nature and gravity of the alleged infringement, also considering the nature, scope or purpose of the processing concerned;
(b) the number of data subjects affected and the level of damage that have been or may have been suffered by them as result of the infringement;
(c) the categories of personal data affected by the infringement;
(d) the duration of the infringement and any actions and/or the measures taken by the delegated controller to ensure compliance with the obligations under the Data protection Rules and to remedy the infringement and mitigate the possible adverse effects of the infringement;
(e) the potential overall importance of the case, also in relation to other public and private interests involved;
(f) the likelihood of establishing that the infringement has occurred.

(6) The Data Protection Board shall only disclose the identity of the complainant and any document related to the complainant to the extent necessary for the proper assessment of the complaint, including the procedural aspects. The Data Protection Board shall not disclose any document related to the complaint to third parties, except for anonymised excerpts or summaries of the final decision, unless the person concerned explicitly consents to such disclosure to third parties.

(7) The Data Protection Board shall not disclose to the complainant any details on procedures that are confidential and to which the restrictions of data subject's rights lawfully apply. In these cases the role of the Data Protection Board will be to inform the complainant, in their opinion, if the data have been processed in accordance with the Data Protection Rules and, if not the case, whether recommendations have been made.

(8) If required by the circumstances of the complaint and upon authorisation of the President, or, where is the case, the President of the Boards of Appeal, the Data Protection Board shall cooperate with the competent

national authorities, including competent national supervisory authorities or law enforcement authorities acting within the scope of their respective competences.

Article 5
Receivability of complaints

(1) The Data Protection Board may decide that a complaint is irreceivable and deliver an opinion limited to the receivability of the complaint. A complaint may be considered to be irreceivable inter alia if it:

(a) is not submitted by a person referred to as data subject according to Article 2 of the Data Protection Rules and whose rights to data protection have allegedly been infringed, or rightful claimant on his or her behalf;
(b) is submitted outside the time limits foreseen in Article 50(1) of the Data Protection Rules;
(c) challenges an individual decision which should have been subject to the procedure of request of review by the delegated controller pursuant to Article 49 of the Data Protection Rules;
(d) challenges other decisions than the decision of the delegated controller pursuant to Article 49 of the Data Protection Rules, or regards a subject matter different from the infringement of data subject's rights according to the Data Protection Rules;
(e) where a complaint relating to the same facts has been lodged by the complainant and is pending with the Ombudsservices, the Appeals Committee or any other body of the EPO, or other jurisdictional authority outside the EPO;
(f) when the conditions of Art 4(3) of these Rules are met;
(g) when the Data Protection Board has already expressed an opinion on the same subject matter.

(2) Where a complaint is found to be irreceivable or the examination of the complaint is discontinued, the Data Protection Board shall, where appropriate, advise the complainant to refer to another competent authority.

Article 6
Case file

(1) The Secretariat shall be competent for keeping the case file of the complaint. The Secretariat shall keep an archive of the case files. All submissions by the parties shall be included in the file, as well as the other information and documents that the Data Protection Board deems necessary and appropriate for issuing an opinion.

(2) Internal communications, memoranda and notes of the Data Protection Board in a given complaint shall not be part of the case file. They shall be archived internally.

Article 7
Objection with regard to the Independence and impartiality of the Data Protection Board

(1) Where an objection has been made by a complainant with regard to the independence or impartiality of the Chair or a member, the decision on that objection shall, as far as possible, be taken before any consideration of the receivability or merits of the complaint by the Data Protection Board has taken place.

(2) Where the objection referred to in paragraph (1) is directed against a member of the Data Protection Board, the Chair shall take a decision on that objection and replace the member as appropriate. Where the objection referred to in paragraph 1 is directed against the Chair, the members shall jointly take a decision on the objection. If there has been a tie in the voting on the objection, the Chair shall be considered unable to act further in the complaint procedure, and shall be replaced by the deputy Chair.

(3) Any person against whom an objection has been made shall be given the opportunity to submit written comments upon the objection before a decision within the meaning of this article is taken.

Article 8
Amicable settlement

(1) Once the complaint has been registered by the Secretariat, the Chair of the Data Protection Board may invite the parties to seek an amicable settlement of the matter giving rise to the complaint.

(2) The Chair of the Data Protection Board shall encourage and actively facilitate an amicable settlement. The Chair may also act as a mediator.

(3) The Controller may, at any time during the procedure before the Data Protection Board, on its own initiative, seek an amicable settlement of the matter giving rise to the complaint. In this case, it shall inform the Data Protection Board.

(4) The proceedings before the Data Protection Board may be suspended for a limited time period during the settlement process.

(5) The settlement discussions shall be confidential and without prejudice to the parties' arguments in the proceedings. No written or oral communication and no offer or concession made in the framework of the attempt to secure a settlement may be referred to or relied on in the contentious proceedings.

(6) If the parties have agreed to a settlement, the settlement is binding on both parties and the complaint shall be regarded as closed.

(7) The Data Protection Board remains competent to deal with claims for the validity, application or execution of a settlement and may make recommendations to the Controller that further internal means of redress are excluded for a challenge of the settlement.

Article 9
Data Protection Board Meetings

(1) The Data Protection Board may hold meetings to discuss one or more complaints.

(2) Attendance to the Data Protection Board meetings is restricted to the Chair and the members, one or more members of the Secretariat and observers, if invited in accordance to Art. 48(1) of the Data Protection Rules.

(3) The meetings of the Data Protection Board shall be convened by the Chair not less than two weeks prior to the meeting. The Secretariat shall issue the invitation to each member, and to any other participants, following the instructions of the Chair. Where technically feasible and secure, meetings can be held remotely through videoconferencing or other technical means.

(4) The Chair shall determine, and the Secretariat shall prepare, the agenda of meetings.

(5) The Secretariat shall ensure that the Chair and all members have access to the complete complaint file in due time prior to the beginning of the meeting.

(6) Upon request of the Chair, the Secretariat may prepare a summary of the relevant facts and arguments of the complainant, as well as a list of the documents submitted by the parties and further information or analysis that might be deemed necessary and appropriate for the Data Protection Board to issue an opinion.

(7) Complaints are in principle dealt with in order of receipt. The Chair may, however, give priority treatment to a given complaint, in particular for reasons of urgency or gravity of the implications towards the data subject.

(8) The Chair shall direct the proceedings during the meeting. The Secretariat is competent to take minutes, as directed by the Chair. The Secretariat shall send the minutes for comments to all members no later than 10 calendar days after the meeting. A list of participants to meetings should be added to the minutes. The draft minutes shall include a summary of the discussions, a record of the conclusions reached, any procedural decisions adopted, and as the case may be the numerical result of vote(s).

(9) The meetings of the Board shall be confidential. The Chair shall take the appropriate measures to ensure confidentiality.

Article 10
Data Protection Board's Opinion

(1) After reviewing the claim, the evidence and any written input submitted by the delegated controller, and where applicable, the processors, and the data subject, and any other document or information that it deems suitable, the Data Protection Board shall issue its reasoned opinion. It may recommend

a compensation for damages, both material and non-material, as a result of the unlawful or irregular processing of the data subject's personal data by the Office.

(2) The Data Protection Board's reasoned opinion shall include:

(a) a description of the subject matter of the complaint;
(b) a statement of the facts and a description of the proceedings, included but not limited to date of the meeting of the Data Protection Board, if any
(c) the main arguments of the parties;
(d) the Data Protection Board's considerations;
(e) the Data Protection Board's recommendations, if any;
(f) any dissenting views of any members of the Data Protection Board.

(3) The reasoned opinion of the Data Protection Board shall be adopted by a majority and shall be signed by the Chair.

(4) The Chair may set a time limit for the submission of any possible dissenting views. The summary of any dissenting views protecting the identity of the dissenting members received by the Data Protection Board Secretariat within this time limit shall be included in the opinion of the Data Protection Board.

(5) At the outcome of its review, the Secretariat of the Data Protection Board shall communicate the reasoned opinion of the Data Protection Board to the President or the President of the Boards of Appeal when acting as the controller in the context of the non-judicial activities in which the Boards of Appeal unit enjoy organisational autonomy under the Act of Delegation, on the basis of which, he or she shall take his or her final decision. The controller shall in general follow the opinion of the Data Protection Board. If the controller decides not to follow the opinion it shall set out in writing the reasons for deviating from the Data Protection Board's opinion.

(6) The Secretariat of the Data Protection Board shall communicate the reasoned opinion of the Data Protection Board to the complainant, the delegated controller and the processor as applicable, and the Data Protection Officer.

Article 11
Urgency Procedure

(1) The complainant may request, for reasons of gravity of the alleged infringement of the data subject's rights or in view of the severity of the risk imposed on the rights and freedoms established by the Data Protection Rules, the Data Protection Board to apply an urgency procedure to the complaint. The complainant requesting an urgent opinion or decision shall explain the reasons why such an urgent opinion or decision has to be adopted and shall submit any relevant document.

(2) In the case of an urgency procedure, the Data Protection Board shall issue a reasoned opinion within two months from the lodging of the complaint.

Article 12
Test-case procedure

(1) The Chair of the Data Protection Board may, of his or her own motion or at the request of a party and in accordance with the Rules of Procedure of the Data Protection Board, initiate a test-case procedure.

(2) When deciding whether to initiate a test-case procedure, the Chair shall take into account:

(a) the type and scale of the contested decision and the alleged infringement;
(b) the number of complaints filed;
(c) the claims and arguments put forward by the complainants in their complaints; and
(d) the possible consequences of dealing with the complaint in a test-case procedure.

(3) Before initiating a test-case procedure, the Data Protection Board shall first seek the views of the complainant and of the controller on the suitability of processing the complaint in accordance with that procedure.

(4) If the Chair decides to initiate a test-case procedure, the Chair shall select test complainants among the complainants referred to in the preceding paragraph of this Rules, with due consideration given to the representative character of their complaints.

(5) The opinion adopted by the Data Protection Board at the end of the test-case procedure shall constitute its opinion pursuant to Article 50(4) of the Data Protection Rules and shall apply to every complaint in which a similar issue has been raised.

(6) Information about the initiation of a test-case procedure and the adoption of the resulting opinion shall be published by the Secretariat of the Data Protection Board.

Article 13
Consolidation of complaints to the Data Protection Board

The Chair of the Data Protection Board may decide to:

(a) consolidate several complaints lodged by different complainants concerning the same subject-matter and deal with them in a single meeting and opinion;

(b) consolidate several complaints lodged by the same complainant and deal with them in a single opinion.

Article 14
Suspension of procedure of complaint to the Data Protection Board

(1) Each of the parties may at any time submit a written and reasoned request for the suspension of the complaint proceedings for a maximum period of one month. The other party shall be given the opportunity to comment on such a request. The suspension may be extended, upon request by the complainant or the delegated controller, to a maximum of 3 months.

(2) The Chair of the Data Protection Board shall decide on the request, in the light of the reasons given in the request and any comments received from the other party.

(3) The Chair of the Data Protection Board shall suspend the examination of a complaint pending a ruling by a court or a decision of another judicial or administrative body on the same matter.

Article 15
Withdrawal of complaint

(1) A complaint may be withdrawn at any time during the proceedings, by written notification to the Secretariat. The Secretariat shall without undue delay inform the Data Protection Board and the controller of any such withdrawal.

(2) The withdrawal of the complaint shall not prevent the Data Protection Board from further examining the subject matter of the complaint and issuing an opinion and/or recommendations to the controller. If the controller decides not to follow the recommendations of the Data Protection Board under this Article, this decision shall be documented.

(3) If the Data Protection Board requests the complainant to conduct a certain action for the continuation of the procedure, in case of protracted inaction of the complainant, the Data Protection Board shall set a reasonable deadline until which the complainant shall comply with the request. If the complainant does not comply with the request within the set deadline and the non-compliance is not justified by important reasons, the complaint is considered withdrawn.

Article 16
Final decision by the Controller

(1) The final decision on the case taken by the President of the Office or, where the case, by the President of the Boards of Appeal acting as controller, shall be notified to the complainant, the delegated controller, and the processor as applicable, the Data Protection Board and the Data Protection Officer. A copy of this decision with its reasoning is sent to the data subject, the delegated controller, and, where applicable, the processor, and the Data Protection Officer.

(2) Where the final decision is taken by the President of the Boards of Appeal acting as the controller in the context of the non-judicial activities in which the Boards of Appeal unit enjoy organisational autonomy under the Act of Delegation under Article 28(3) of the Data Protection Rules, it shall be communicated to the President of the Office. Where the decision is taken by the President of the Office but it regards activities of the Boards of Appeal where the President of the Boards of Appeal acts as a delegated controller, it shall be communicated to the President of the Boards of Appeal.

(3) Abstracts from the final decision and from the opinion of the Data Protection Board may be published in-house and/or externally by the Secretariat, under the authorisation of the President, with due regard to the confidentiality of the proceedings.

Article 17
Retention period

(1) The Secretariat of the Data Protection Board shall retain the case file for a period of 10 years after their definitive resolution or withdrawal through:

(a) a final decision taken by the President of the Office or, where the case, the President of the Boards of Appeal which has not been challenged; or
(b) a judgment by the Administrative Tribunal of the International Labour Organisation;
(c) a judgement by the dispute resolution procedure set forth in Art. 50(7) of the Data Protection Rules; or
(d) an amicable settlement.

(2) Members of the Data Protection Board shall destroy any files or copies of files pertaining to a complaint case file within six months after the issuing of the Data Protection Board's opinion.

Article 18
Final provisions

(1) These Rules of Procedure shall enter into force on 1st of January 2022

(2) The Data Protection Board may propose amendments to these Rules of Procedure, which amendments shall be submitted to the President for approval.

Decision of the President of the European Patent Office dated 2 May 2024 identifying the operational units of the Office acting as delegated controllers within the meaning of the Data Protection Rules

The President of the European Patent Office,

Having regard to Article 10(2)(a) of the European Patent Convention,

Having regard to the Articles 1b and 32a of the Service Regulations and the Implementing Rules thereto (Data Protection Rules, DPR), in particular Article 3(1) and Article 28(3) and (4) DPR

Has decided as follows:

Article 1

1. The list in the Annex 1 to this decision identifies the organisational functions representing the operational units that have the competence of determining the purposes and means of processing certain personal data according to Article 28(3) DPR in specific processing operations in the meaning of Article 3(1).
2. Delegated controllers may not sub-delegate the controllership unless the conditions set forth by Article 28(4) DPR are met.
3. The list replaces the list published with the decision dated 17 April 2023.
4. The list shall be reviewed and updated yearly, or more often, if necessary, to reflect organisational changes or any changes notified to the DPO according to Article 28(4) DPR.

This decision enters into force on 2 May 2024.

Done at Munich, 2 May 2024.

António Campinos
President

ANNEX 1

List of EPO Delegated Controllers[1]

Function	Processing operations
DG0	
Vice President Corporate Services, DG 4	All processing operations conducted within the President's Office
Principal Director Communication, PD 0.2	All processing operations conducted within PD 0.2
Chief Patent Research and Policy Officer, PD 0.3	All processing operations conducted within PD 0.3
Chief Business Analyst, PD 0.3.1	All processing operations conducted within PD 0.3.1
Chief Economist, D 0.3.2	All processing operations conducted within D 0.3.2
Director Observatory, D 0.3.3	All processing operations conducted within D 0.3.3
Director Brussels Office, D 0.3.4	All processing operations conducted within D 0.3.4
Principal Director Internal Audit & Professional Standards, PD 0.4	All processing operations conducted within PD 0.4 except those expressly delegated to Directors in PD 0.4
Director Internal Audit, D 0.4.1	All processing operations conducted within D 0.4.1
Director Ethics and Compliance, D 0.4.4	All processing operations conducted within D 0.4.4
Director Ombuds Office, D 0.4.5	All processing operations conducted within D 0.4.5
Administrator of the Reserve Funds, PD 0.5	All processing operations conducted within PD 0.5
Director Appeals Committee Secretariat, D 0.6	All processing operations conducted within the Appeals Committee and the Appeals Committee Secretariat
Director Data Protection Office, D 0.7	All processing operations conducted within D 0.7

1 According to Art. 3(1)h DPR, "delegated controller" means the operational unit, represented by its head, ensuring that all processing operations involving personal data that are performed within the operational unit comply with the DPR. This list includes the designation of the head of each operational unit identified as delegated controller.

Principal Director Employment Law & Social Dialogue Advice, PD 0.8	All processing operations conducted within PD 0.8
DG1	
Vice President Patent Granting Process, DG 1	All processing operations conducted within DG 1 except for those expressly delegated to PDs in DG 1
Principal Director Operations, PD 1.1	All processing operations conducted within PD 1.1
Principal Director Quality and Practice Harmonisation, PD 1.3	All processing operations conducted within PD 1.3
Principal Director Business Planning & Performance, PD 1.4	All processing operations conducted within PD 1.4
Principal Director Customer Journey and Key Account Management, PD 1.5	All processing operations conducted within PD 1.5
DG4	
Vice President Corporate Services, DG 4	All processing operations conducted within DG 4 except for those expressly delegated to PDs or Directors in DG 4
Director Corporate Performance, Risk and Compliance, D 4.0.1	All processing operations conducted within D 4.0.1
Principal Director Finance, PD 4.1	All processing operations conducted within PD 4.1
Chief People Officer, PD 4.2	All processing operations conducted within PD 4.2 except those expressly delegated to Directors in PD 4.2
Director Talent Acquisition and Development, D 4.2.1	All processing operations conducted within D 4.2.1
Director People Engagement and Partnership, D 4.2.2	All processing operations conducted within D 4.2.2

Director Talent Planning and Architecture, D 4.2.3	All processing operations conducted within D 4.2.3
Principal Director Welfare & Remuneration, PD 4.3	All processing operations conducted within PD 4.3
Principal Director General Administration, PD 4.4	All processing operations conducted within PD 4.4
CTO, PD 4.5	All processing operations conducted within PD 4.5
CIO, PD 4.6	All processing operations conducted within PD 4.6
Principal Director Procurement and Vendor Management, PD 4.7	All processing operations conducted within PD 4.7

DG5	
Vice President Legal / International Affairs, DG 5	All processing operations within DG 5 except those expressly delegated to PDs or Directors in DG 5
Director Council Secretariat, D 5.0.1	All processing operations conducted within D 5.0.1
Principal Director Performance and Process Office, PD 5.0.2	All processing operations conducted within PD 5.0.2
Principal Director European and International Affairs, PD 5.1	All processing operations conducted within PD 5.1
Principal Director Legal Affairs, PD 5.2	All processing operations conducted within PD 5.2
Principal Director Patent Law and Procedures, PD 5.3	All processing operations conducted within PD 5.3
Principal Director Patent Intelligence, PD 5.4	All processing operations conducted within PD 5.4

Other Areas	
Chief Patent Research and Policy Officer, PD 0.3	All processing operations conducted within the Disciplinary Committee and the Disciplinary Committee Secretariatt

Chief Patent Research and Policy Officer, PD 0.3	All processing operations conducted within the Data Protection Board and the Data Protection Board Secretariat
Chairperson of the Joint Committee on Articles 52 and 53	All processing operations conducted within the Joint Committee on Articles 52 and 53
Chairperson of the Central Occupational Health, Safety and Ergonomics Committee (COHSEC)	All processing operations conducted within the Central Occupational Health, Safety and Ergonomics Committee (COHSEC)
Chairperson of the Local Occupational Health, Safety and Ergonomics Committee (LOHSEC) Munich	All processing operations conducted within the Local Occupational Health, Safety and Ergonomics Committee (LOHSEC) Munich
Chairperson of the Local Occupational Health, Safety and Ergonomics Committee (LOHSEC) The Hague	All processing operations conducted within the Local Occupational Health, Safety and Ergonomics Committee (LOHSEC) The Hague
Chairperson of the Local Occupational Health, Safety and Ergonomics Committee (LOHSEC) Berlin	All processing operations conducted within the Local Occupational Health, Safety and Ergonomics Committee (LOHSEC) Berlin
Chairperson of the Local Occupational Health, Safety and Ergonomics Committee (LOHSEC) Vienna	All processing operations conducted within the Local Occupational Health, Safety and Ergonomics Committee (LOHSEC) Vienna
Chairperson of the Home Loans Committee	All processing operations conducted within the Home Loans Committee
Principal Director Welfare & Remuneration, PD 4.3	All processing operations conducted within the Supervisory Committee of the SSP
Principal Director Welfare & Remuneration, PD 4.3	All processing operations conducted within the Appraisals Committee
Chair of the Central Staff Committee	All processing operations conducted within the CSC
Chair of the Local Staff Committee, The Hague	All processing operations conducted within the LSC, The Hague
Chair of the Local Staff Committee, Berlin	All processing operations conducted within the LSC, Berlin

Chair of the Local Staff Committee, Vienna	All processing operations conducted within the LSC, Vienna
Chair of the Local Staff Committee, Munich	All processing operations conducted within the LSC, Munich
Chairperson of the Disciplinary Board of the European Patent Office	All processing operations necessary for the exercise of the function of chairperson and the running of the activities of the Disciplinary Board
Chief Inter-Amicale Officer (CIAO)	All processing operations conducted within the Amicale branches

Circular No. 420 (16 December 2021)
Implementing Article 25 of the Data Protection Rules (DPR)

Article 1 – Purpose

The purpose of this Circular is to clarify the concept of and requirements for the restrictions of the rights of data subjects set forth in Article 25 of the Implementing Rules for Articles 1b and 32a of the Service Regulations (DPR). It also lays down rules on the conditions and procedures under which the Office, when processing personal data for its administrative functioning, namely the processing operations necessary for the Office's management and functioning set out in Article 3, may restrict in accordance with Article 25 DPR the observance of the rights and obligations provided for in Articles 15 to 22, 34 and 35 DPR, as well as of Article 4 DPR in so far as its provisions correspond to the rights and obligations provided for in Articles 15 to 22 DPR.

Article 2 – Definitions

For the purposes of this Circular, the following definitions apply, in addition to the definitions in Article 3 DPR:

"Restriction of the rights of the data subject" means the act of temporarily limiting in an individual case, in accordance with Article 25 DPR and under the requirements for lawfulness set out therein, an existing right of the data subject in relation to processing of personal data by the Office in its administrative functioning. A restriction is an exception made in particular circumstances and under certain conditions to the general rule under the DPR allowing the exercise of rights of the data subject and imposing related obligations. A restriction may be applied when the controller enjoys discretion under the applicable legal provisions of the European Patent Organisation (EPO) as to whether or not to limit the rights of the data subject.

"Exemption to the applicability of the rights of the data subject" means a privilege conferred by a legal provision of the EPO that releases the controller from certain obligations under the DPR or allows the limitation of the rights of data subjects provided for in the DPR. In order to give rise to an exemption, the legal provision of the EPO must clearly identify the scope of the exemption's application and leave the controller no room for discretion as to whether or not the exemption must be applied, even if the practical implementation may vary depending on the circumstances. An exemption is permanent in the sense that it lasts for as long as the legal provision that provides for it is in force.

"Rights of the data subject" means the rights provided for in Articles 15 to 22, 34 and 35 DPR and in Article 4 DPR in so far as its provisions correspond to the rights and obligations provided for in Articles 15 to 22 DPR, as they apply in accordance with Article 25 DPR.

"Legal provisions of the EPO" means the European Patent Convention (EPC) or its constituent parts, international agreements and treaties such as the Patent Cooperation Treaty and any provisions applicable under them, in particular in

relation to the procedure for granting European patents on the basis of Article 4(3) EPC and related procedures. They include the provisions governing the publication of patent applications, patents and related information, the constitution, maintenance and preservation of files, file inspection and exclusions from file inspection, communication with parties, correction and rectification, the exchange of information with patent offices and other authorities and disciplinary proceedings against professional representatives, and further legal arrangements made by the President of the Office, rules and instruments enacted by the Administrative Council, as well as circulars, communiqués and all other legal provisions adopted or issued by the President of the Office or by the President of the Boards of Appeal.

"Hard personal data" means objective data such as identification data, contact data, professional data, administrative details, data received from specific sources, electronic communications and traffic data.

"Soft personal data" means subjective data related to a data subject such as reasoning and opinions, behavioural data, performance and conduct data and data related to or brought forward in connection with the subject-matter of proceedings or an activity.

Article 3 – Field of application

(1) This Circular has the same field of application as provided for in Article 2 DPR. In particular, it applies to processing operations initiated and carried out by the Office throughout the procedures and activities listed in Article 4(1), including prior to commencing them and when monitoring their outcome. It also applies to co-operation, including assistance, between the Office and competent authorities of contracting states to the EPC and/or other competent authorities, for example of third countries or international organisations.

(2) Subject to the conditions set out in this Circular, the following rights of the data subject may be restricted: right to the provision of information to data subjects, right of access, right to rectification, right to erasure, right to restriction of processing, right to communication of a personal data breach to the data subjects and right to confidentiality of electronic communications.

(3) When it applies, the right to object under Article 23 DPR cannot be restricted. Data subjects always have the right to object to processing of their personal data under Article 5(a) DPR, i.e. processing necessary for the performance of a task carried out on the basis of legal provisions of the EPO or in the legitimate exercise of the official authority vested in the controller, which includes the processing necessary for the Office's management and functioning. However, while data subjects have the right to object, the controller examining the objection may nevertheless demonstrate that there are compelling legitimate grounds not to grant it.

(4) When processing data within the framework of its official activities and fulfilling its obligations as regards rights of data subjects under the DPR,

the controller must first consider whether the legal provisions of the EPO provide for any exemption to the applicability of the rights of the data subject in the processing operation. If an exemption applies, the controller is not obliged to comply with the obligations laid down in the DPR as regards the rights of the data subject in question.

(5) When applying restrictions to the rights of the data subject, the controller and the delegated controller must be able to demonstrate compliance with the DPR and with the conditions and requirements laid down this Circular and justify the application of the restriction.

(6) This Circular applies to all categories of personal data, including both hard personal data and soft personal data.

Article 4 – Restrictions

(1) The Office may restrict the application of Articles 15 to 21, 34 and 35 DPR, as well as of Article 4 DPR in so far as its provisions correspond to the rights and obligations provided for in Articles 15 to 21 DPR:

(a) pursuant to Article 25(1)(b), (c), (d), (f), (g) and (h) DPR when conducting investigative processes under the Implementing Rules for Articles 21, 21a and 93(2) of the Service Regulations (ServRegs)
(b) pursuant to Article 25(1)(b), (c), (e), (f), (g) and (h) DPR when conducting disciplinary proceedings under Articles 93, 95, 95a and Chapter 3 ServRegs
(c) pursuant to Article 25(1)(a), (b), (c), (e), (f), (g) and (h) DPR when processing personal data in proceedings related to the prevention and management of grievances under the provisions of Title VIII (Settlement of Disputes) ServRegs and Articles 49, 50, 51 and 52 DPR or in connection with the establishment, exercise or defence of legal claims involving the EPO or its subordinate bodies, including arbitration, in order to preserve confidential information and documents obtained from the parties, interveners or other legitimate sources
(d) pursuant to Article 25(1)(h) DPR when processing health-related data in medical procedures and files
(e) pursuant to Article 25(1)(c), (g) and (h) DPR when conducting internal audits in relation to activities or organisational units of the Office
(f) pursuant to Article 25(1)(c), (g) and (h) DPR in investigations carried out by the Data Protection Officer under Article 43(2) DPR
(g) pursuant to Article 25(1)(a), (b), (c), (d), (g) and (h) DPR for the purposes of IT incident management and physical security incident reports, whether handled internally or with external involvement
(h) pursuant to Article 25(1)(c), (d), (g) and (h) DPR when providing or receiving assistance to or from competent public authorities, including from EPC contracting states and international organisations, or when co-operating with them on activities defined in relevant service

level agreements, memoranda of understanding and co-operation agreements, either at their request or on the Office's own initiative

(2) Restrictions of individual rights are lawful when they safeguard the important interests listed in Article 25(1) DPR. Data subjects' rights can be restricted only when those interests are at stake and when the restrictions aim at safeguarding such interests.

(3) Restrictions must always respect the essence of the right that is being restricted. This means that restrictions that are so extensive and intrusive that, in effect, they deprive a fundamental right of its basic substance and prevent the individual from exercising it cannot be justified. If the essence of the right is compromised, the restriction must already be considered unlawful and it is unnecessary to further assess whether it serves an objective of general interest and satisfies the necessity and proportionality criteria.

(4) A necessity and proportionality test must be carried out in each case before a restriction is applied. Restrictions must be limited to what is strictly necessary to achieve their objective. For accountability purposes, restrictions must be documented in an internal and confidential assessment note that analyses which rights are to be restricted, for how long, for what reasons and on which of the legal grounds listed in paragraph 1 and sets out the outcome of the necessity and proportionality test. This test will also be conducted when reviewing the application of a restriction.

(5) A restriction is in principle a temporary measure and, as such, must not restrict a right of the data subject indefinitely. Restrictions must be lifted as soon as the circumstances that justify them no longer apply and, in particular, where it is considered that an exercise of the restricted right would no longer cancel the effect of the restriction imposed or adversely affect the rights or freedoms of other data subjects.

(6) The Office may exchange personal data of data subjects with competent public authorities of EPC contracting states in accordance with Article 20 of the EPO Protocol on Privileges and Immunities and with public authorities of third countries or international organisations under public international law. Where the exchange of personal data is initiated by another authority or international organisation, no restriction will be applied by the Office. When processing personal data received from other public entities for the purposes of performing its tasks, the Office will consult those public entities on potential grounds for imposing restrictions and the necessity and proportionality of any such restrictions unless this would jeopardise its activities.

(7) The records of processing operations subject to restrictions and, where applicable, the documents setting out the factual and legal basis for those restrictions must be made available to the Data Protection Board upon request.

Article 5 – Specification of the controller, safeguards and storage periods

(1) Unless otherwise specified in the DPR, the President of the Office acts as the controller of the personal data processed by the Office and is free to delegate competence to determine the purposes and means of processing certain personal data to an organisational unit, represented by its head. Data subjects must be informed of the delegated controllers in the records and data protection notices published on the Office's intranet and/or website.

(2) The Office must implement safeguards to prevent abuse of, unlawful access to or transmission or transfer of personal data in respect of which restrictions apply or could be applied. Such safeguards include technical and organisational measures and must be detailed as necessary in circulars, guidelines, procedural documentation and administrative instructions of the Office. The measures must include:

(a) a clear definition of roles, responsibilities and procedural steps
(b) a secure electronic environment which prevents unlawful and accidental access to or transfer of electronic data to unauthorised persons
(c) secure storage and processing of paper-based documents
(d) due monitoring of restrictions and periodic review of their application

The reviews referred to in point (d) must be conducted at least once a year and at the closure of the procedure in question.

(3) Restrictions must be lifted as soon as the circumstances that justify them no longer apply.

(4) The storage period of the personal data processed in the procedures in which restrictions are applied must be no longer than specified in the records and data protection notices for the procedures and activities listed in Article 4(1). At the end of the storage period, the case-related information, including personal data, must be deleted, anonymised or stored in the Office's historical archives.

(5) When considering whether to apply a restriction, the Office must weigh up the potential risks to the rights and freedoms of the data subject against, in particular, the risks to the rights and freedoms of other data subjects and the risks of hindering the purpose and outcome of the processing operation. Risks to the rights and freedoms of the data subject primarily include, but are not limited to, reputational risks and risks to the right of defence and the right to be heard.

Article 6 – Involvement of the Data Protection Officer

(1) The delegated controller must inform the Data Protection Officer without undue delay whenever the delegated controller restricts the application of the rights of data subjects, lifts the restriction or revises the period of restriction in accordance with this Circular. The delegated controller will provide the Data Protection Officer with access to the internal and confidential

assessment note containing the assessment of the necessity and proportionality of the restriction and any documents concerning the factual or legal context, and document the date the Data Protection Officer is informed in the specific record.

(2) The Data Protection Officer may request the delegated controller in writing to review the application of a restriction. The delegated controller must inform the Data Protection Officer in writing of the outcome of the requested review.

(3) The involvement of the Data Protection Officer in the restriction procedure, including any exchanges of information, must be documented in an appropriate form.

Article 7 – Information for data subjects on restrictions of their rights

(1) The Office must publish on its intranet and/or its website records within the meaning of Article 32 DPR, data protection notices and/or privacy policies which inform all data subjects of the activities involving processing of their personal data and of their rights in relation to a given processing, including information on any potential restrictions of these rights. The information must cover which rights may be restricted, the grounds on which the restriction may be applied and the potential duration of the restriction.

(2) Where data subjects request to exercise their right of access, rectification, erasure and restriction of processing in relation to their personal data processed in the context of one or more specific cases or in a particular processing operation, the Office will limit its assessment of their request to the personal data concerned only.

(3) Where applicable, the delegated controller must inform data subjects individually, in writing and without undue delay of current or future restrictions of their rights. The delegated controller must also inform the data subjects of the principal reasons and the legal grounds on which the restrictions are based and the potential duration of the restrictions, of their right to consult the Data Protection Officer with a view to challenging the restriction and of their right to seek legal redress under Articles 49 and 50 DPR.

(4) In duly justified cases and under the conditions laid down in this Circular, the controller may restrict the provision of certain information where this is necessary and proportionate in the context of the procedures and activities listed in Article 4(1). In particular, the provision of information about the reasons for a restriction and the right to seek legal redress under Articles 49 and 50 DPR may be deferred, omitted or denied in accordance with Article 25(4) DPR if it would cancel the effect of the restriction.

(5) Where the delegated controller restricts, wholly or partly, the provision of information referred to in paragraph 3, it must document in the internal and confidential assessment note the reasons for the restriction, including a reasoned assessment of its necessity and proportionality, the legal grounds for it and its duration.

(6) A restriction referred to in paragraph 4 continues to apply for as long as the reasons justifying it remain applicable. An assessment of whether the reasons remain applicable must take place in every case. Once the reasons for the restriction no longer apply, the delegated controller must provide the data subject with the information.

(7) The delegated controller will review the application of the restriction at least once a year and at the closure of the procedure in question. Thereafter, the delegated controller will monitor the need to maintain any restriction on an annual basis.

(8) The provisions of this Article do not apply to the right of access to medical data and/or files, for which specific rules are explicitly laid down in Article 8 below.

Article 8 – Right of access to medical data and/or files

(1) Restrictions of the right of access of data subjects to their medical data and/or files are governed by the specific provisions of this Article.

(2) Subject to the following paragraphs of this Article, the Office may restrict a data subject's right to directly access their personal medical data and/or files of a psychological or psychiatric nature which are processed by the Office but only if access to those data is likely to adversely affect and pose an immediate danger to the life and health of the data subject or others. The restriction must be proportionate to what is strictly necessary to protect the data subject or others.

(3) Access to the data referred to in paragraph 2 must be given to a physician of the data subject’s choice.

(4) Where data subjects request to exercise their right of access to their personal medical data processed in the context of one or more specific cases or in a particular processing operation, the Office will limit its assessment of their request to the personal data concerned only.

(5) Where the Office restricts, wholly or partly, a data subject's right of direct access to personal medical data and/or files of a psychological or psychiatric nature, it must take the following steps:

(a) inform the data subject concerned, in its reply to the request, of the restriction applied and of the principal reasons for it and of their right to consult the Data Protection Officer and seek legal redress in accordance with Articles 49 and 50 DPR. The provision of this information may be deferred, omitted or denied in accordance with Article 25(4) DPR if it would cancel the effect of the restriction.

(b) document in the internal and confidential assessment note the reasons for the restriction, including a reasoned assessment of its necessity and proportionality which, in particular, evaluates how exercising the right of access would adversely

affect and pose an immediate danger to the life and health of the data subject or others, and the potential duration of the restriction.

(6) Any restriction referred to in this Article will continue to apply for as long as the reasons justifying it remain applicable. Once the reasons for the restriction no longer apply, upon a request of the data subject, the delegated controller will review the need to maintain the restriction.

Article 9 – Communication of a personal data breach to the data subject

(1) Where the Office is under an obligation to communicate a data breach under Article 34(6) DPR, it may, in exceptional circumstances, restrict such communication wholly or partly. However, the right to this communication must not be restricted in procedures for dealing with harassment.

(2) The delegated controller must draw up a note documenting the reasons for the restriction, the legal ground for it under Article 4(1) and an assessment of its necessity and proportionality. This note must be communicated to the Data Protection Officer when the personal data breach is notified.

(3) Once the reasons for the restriction no longer apply, the Office must communicate the personal data breach to the data subjects concerned and inform them of the principal reasons for the restriction and of their right to consult the Data Protection Officer and seek legal redress in accordance with Articles 49 and 50 DPR.

Article 10 – Confidentiality of electronic communications

(1) In exceptional circumstances, the Office may restrict the right to confidentiality of electronic communications under Article 35 DPR. Such restrictions must comply with the Guidelines on Electronic Communications.

(2) Where the Office restricts the right to confidentiality of electronic communications, it must inform the data subject concerned, in its reply to any request from that data subject, of the principal reasons for applying the restriction and of the right to seek legal redress in accordance with Article 49 and Article 50 DPR.

(3) The Office may defer, omit or deny the provision of information about the reasons for a restriction and about the right to consult the Data Protection Officer and seek legal redress in accordance with Articles 49 and 50 DPR for as long as such provision would cancel the effect of the restriction. An assessment of whether deferring, omitting or denying the provision of information is justified must take place in every case.

Article 11 – Entry into force

This Circular shall enter into force on 1 January 2022.

Munich, 16 December 2021.

The President of the European Patent Office
António Campinos

Decision of the President of the European Patent Office of 17 November 2022 concerning countries and entities considered to ensure adequate protection of personal data

The President of the European Patent Office (EPO),

Having regard to

- Article 10(2)(a) of the European Patent Convention,
- Decision CA/D 5/21 of the Administrative Council of the European Patent Organisation of 30 June 2021 introducing a new data protection framework at the EPO, by which amendments to the Service Regulations for permanent and other employees of the EPO and Implementing Rules for Articles 1b and 32a of those Service Regulations on the protection of personal data ("Data Protection Rules") were adopted with effect from 1 January 2022,
- And in particular of Articles 1(2)(a), (3)(1)(t) and 9(2) and (3) of the Data Protection Rules,

Considering transfers under Article 9 are to National Patent Offices outside the territory of the European Patent Convention contracting states, public authorities outside the territory of the European Patent Convention contracting states, international organisations, private entities within or outside the European Economic Area (EEA) not qualifying as processors, and private entities qualifying as processors and located outside the EEA,

Taking into consideration in cases of conflict the European Patent Convention, including its Implementing Regulations and any other provisions applicable under it (e.g. Protocol on Privileges and Immunities), and the provisions of the Patent Cooperation Treaty, including its Regulations and any other provisions and established practices applicable under it prevail over the Data Protection Rules,

Has decided as follows:

Article 1
Adequacy decision

For the purposes of Article 9(2) of the Data Protection Rules, the countries of the recipients (or territories or sectors within a country) and entities listed in the annex to this decision are considered to ensure an adequate level of protection for personal data transferred from the EPO.

Article 2
Monitoring of continued adequacy

The EPO will continuously monitor whether the countries and entities listed in the annex continue to ensure an adequate level of protection within the meaning of Article 1 and this decision may be repealed or amended at any time as a result.

Article 3
New entries

The EPO will continuously assess whether any other countries and entities ensure an adequate level of protection within the meaning of Article 1 and, if so, this decision may be amended at any time to include them in the annex.

Article 4
Entry into force

This decision enters into force on 17 November 2022. It applies to any processing of personal data ongoing on or initiated after that date.

Done at Munich, 17 November 2022.

António Campinos
President

ANNEX

List of countries considered to ensure adequate protection

1. Countries in the EEA
2. Andorra
3. Argentina
4. Canada (private-sector organisations)
5. Faroe Islands
6. Guernsey
7. Israel
8. Isle of Man
9. Japan
10. Jersey
11. New Zealand
12. Republic of Korea
13. Switzerland
14. United Kingdom, based on its General Data Protection Regulation and the EU Law Enforcement Directive
15. Uruguay

List of entities considered to ensure adequate protection

European Union institutions, bodies, offices, and agencies, based on Regulation (EU) 2018/1725.

Unified Patent Court[1].

1 Amended by decision of the President of the Office of 11 May 2023.

Decision of the President of the European Patent Office dated 12.07.2024 on the Enforceability of DPO Recommendations endorsed by the Data Protection Board in the framework of Data Protection Audits and Inspections

The President of the European Patent Office,

Having regard to Article 10(2)(a) and Article 10(2)(i) of the European Patent Convention,

Having regard to Articles 1b and 32a of the Service Regulations and the Implementing Rules thereto (Data Protection Rules, DPR), in particular Articles 43(1) (d) and (2) and 47(1) DPR,

Having regard to the Data Protection Audits Methodology and Data Protection Inspections Methodology approved by the President,

Has decided as follows:

Article 1

If during data protection audits or data protection inspections within the framework of Article 43(1)(d) DPR an incompliance is found and the Data Protection Officer issues recommendations to address such incompliance, these recommendations, by virtue of this decision, become binding and enforceable, subject to their validation by the Data Protection Board.

Article 2

When this decision enters into force, the decision of the President of the European Patent Office dated 7.07.2023 on the Enforceability of DPO Recommendations endorsed by the Data Protection Board in the framework of Data Protection Audits and Inspections will cease to have effect.

This decision enters into force on 12.07.2024.

Done at Munich, 12.07.2024.

António Campinos
President

Decision of the President of the Boards of Appeal of 5 April 2022 appointing a delegated controller within the meaning of the Data Protection Rules

The President of the Boards of Appeal,

Having regard to Article 10(2)(a) of the European Patent Convention and to the Act of Delegation,

in particular Article 1 thereof,

Having regard to Articles 1b and 32a of the Service Regulations and the Implementing Rules thereto (Data Protection Rules), in particular Article 3(1) and Article 28(1), (2) and (4) Data Protection Rules,

Has decided as follows:

Article 1

1. The deputy of the President of the Boards of Appeal will act as delegated controller with regard to the personal data processing operations carried out in the exercise of administrative functions and powers under the Act of Delegation.
2. This delegation does not regard the personal data processing operations carried out as part of the judicial activity of the Boards of Appeal.
3. The delegated controller may not sub-delegate the controllership.

Article 2

This decision enters into force on 5 April 2022.

Done at Munich, 5 April 2022.

C. Josefsson
The President of the Boards of Appeal

Basic guidelines

Policy on the resolution of conflicts and on the prevention of harassment

Circular No. 341
(1 November 2017)

Policy on the resolution of conflicts and on the prevention of harassment at the EPO

A. Introduction

Guiding principles

The European Patent Office (hereinafter referred to as "the Office") seeks to enable and promote a respectful environment for all persons working at or for the Office. It is committed to fostering a workplace which is free of harassment and intimidation and where everyone can work together with openness, trust and respect for diversity. Any form of harassment as defined in Article 14b ServRegs, whether committed by colleagues, managers or third parties, is prohibited, and is contrary to the interests of the European Patent Organisation.

Everyone has the right to be treated with dignity, professional respect, and discretion in the workplace. This requires an organisational culture where everyone, at all levels, feels a personal responsibility to ensure that the dignity of colleagues is respected, bearing in mind and taking into consideration differences in culture and customs.

The present Circular reinforces the prohibition of harassment and contains general provisions relating to workplace conflicts. It sets out an informal mechanism for the prevention and amicable resolution of such conflicts and outlines the associated roles and responsibilities.

Policy goals

The aim of this policy is to help promote a respectful working environment and to provide a means of resolving workplace conflicts.

It is the Office's policy:

- to protect the dignity of all persons working at or for the Office;
- to promote a culture in which the dignity of such persons is respected and all forms of harassment are regarded as unacceptable and are neither tolerated nor condoned;
- to strictly prohibit any form of harassment and to enforce this prohibition effectively;
- to take all allegations of harassment seriously, so that everyone feels confident that they can bring such allegations without fear of ridicule or reprisal;
- to encourage and facilitate the amicable resolution of workplace conflicts at the lowest appropriate level;

- to inform all persons working at or for the Office of the issues relating to workplace conflicts, their rights and responsibilities in this regard, and where to find help if needed.

Everyone in the Office has a role to play in creating and maintaining a work climate which is free from inappropriate behaviour and where conflicts are dealt with in a respectful manner. The most effective way to prevent and resolve conflicts is through the joint efforts of all staff.

B. General provisions

Article 1
Field of application

(1) This Circular shall apply to all persons covered by Article 1 of the Service Regulations, including former employees of the Office.

(2) It shall also apply to all persons who are not covered by paragraph 1 of this Article but who undertake work in or on behalf of the Office. Where direct application to such persons is not possible, the Office will seek to apply by contractual agreement the rights and obligations set out in this Circular.

Article 2
Prohibition of harassment

(1) The Office prohibits any form of harassment (Article 14b ServRegs) either at the workplace in the Office or in connection with the work of a person covered by Article 1 above.

(2) Any failure by an employee or former employee to comply with this obligation, whether intentionally or through negligence on his part, may be considered a breach of his obligations to act in accordance with the standards of conduct set forth in the Service Regulations and may therefore make him liable to disciplinary action under Title VII of the Service Regulations.

(3) Employees subjected to inappropriate behaviour may, in addition to using the means of amicable resolution of conflicts provided for in this Circular, resort to the formal procedure and file an allegation of harassment. The filing of such allegations and their investigation are governed by the Implementing Rules for Articles 21, 21a and 93(2) of the Service Regulations.

Article 3
Amicable conflict resolution

(1) The aim of amicable conflict resolution is to resolve conflict situations through means other than the formal procedures of dispute resolution, investigation and litigation. Its purpose is therefore not to formally establish the facts of the case or to determine any disciplinary measures.

(2) The specific method applied will depend on the nature of the conflict and the circumstances, due account being taken of the Office's duty of care towards its employees. Depending on the circumstances, informal discussions, counselling or facilitation, be it with or without the guidance or intervention of third parties, may be required.

(3) All persons covered by this Circular are encouraged to seek an amicable resolution to conflicts with colleagues as soon as possible and at the lowest appropriate level. As a general rule, the parties involved in a conflict should in the first instance attempt to resolve it by clarifying the matter in good faith among themselves or seek advice and assistance from their line manager. Alternatively, they may resort to the other resources available with the assistance of the confidential counsellors and the Conflict Resolution Unit ("CRU").

(4) All parties and departments involved in the conflict resolution process shall endeavour to keep the number of persons and procedures involved to a minimum.

C. Roles and responsibilities

Article 4
Responsibilities of all staff

(1) All employees shall, in the discharge of their duties, be responsible for their own behaviour in accordance with the provisions governing the conduct of employees. They shall treat their colleagues with professional respect and discretion and refrain from any inappropriate behaviour.

(2) Staff involved in existing or potential conflicts should seek to prevent or resolve misunderstandings through open dialogue and respectful communication.

(3) The Office stresses the importance of establishing and maintaining positive relationships for a peaceful working environment as one of the core competencies it expects of its staff.

Article 5
Responsibilities of line managers

(1) Line managers shall actively contribute to the creation and maintenance of a respectful workplace environment for their teams and promote the early resolution of conflicts. They shall make themselves available to employees who wish to raise concerns in confidence, and shall deal with such concerns in an impartial and sensitive manner.

(2) Line managers shall at all times act responsibly, bearing in mind their role. They shall lead by example, provide staff with guidance and be vigilant for signs of inappropriate behaviour, whether or not a complaint has been made.

(3) Line managers may ask the CRU and Human Resources partners for advice on appropriate means of conflict resolution and the resources available for this.

Article 6
Human Resources partners

Human Resources partners shall be responsible for advising and supporting line managers and employees in promoting and implementing this policy. They shall make themselves available to any line manager or employee wishing to raise a concern, and shall encourage open communication and amicable conflict resolution.

Article 7
Confidential counsellors

(1) Confidential counsellors shall provide independent guidance and support for employees who wish, in strict confidentiality, to raise concerns regarding workplace conflict and to work towards amicable conflict resolution. At an employee's request, they shall facilitate and advise on amicable resolution throughout all stages of the process with a view to finding a satisfactory solution to the problem. They shall listen carefully to the employee, remain objective and communicate in a respectful manner at all times.

(2) When a conflict occurs, the parties shall be encouraged to seek the assistance of a confidential counsellor of their choice. The identity of the parties concerned and information about the amicable conflict resolution process and its outcome shall be confidential. Confidential counsellors shall not disclose any such information without the express consent of the parties, unless they become aware of a risk of serious harm to an individual. Any action by the confidential counsellor, in particular making contact with the other party, may only be taken with the prior consent of the employee consulting them and must remain within the remit given to them.

(3) Confidential counsellors shall refrain from becoming involved in any case in which they may have a personal interest. In performing their tasks, they shall deal respectfully and objectively with the staff consulting them and refrain from conducting any investigations.

Article 8
Conflict Resolution Unit

(1) The CRU shall actively support and co-ordinate the amicable conflict resolution process.

(2) It shall:

(a) provide staff and line managers with information and advice on the resources available in the Office for dealing with conflicts and direct them, if appropriate, towards the relevant department;

(b) co-ordinate the work of the confidential counsellors;

(c) provide administrative support for the amicable conflict resolution process, if necessary in co-operation with other departments;

(d) address all concerns regarding the impartiality of confidential counsellors or the conduct or effectiveness of the amicable conflict resolution process.

(e) develop and promote programmes to raise awareness of issues relating to workplace conflicts, protection of dignity and prevention of harassment.

(3) The CRU does not engage in any investigative activities. In view of its role in the amicable conflict resolution process, the CRU may, however, be asked by the Directorate Ethics and Compliance to assist in the resolution of allegations of harassment and related conflicts.

Article 9
Directorate Ethics and Compliance

(1) The Directorate Ethics and Compliance (DEC) helps to promote integrity, ethics, and accountability throughout the Office, and to prevent, detect and address misconduct, including harassment.

(2) To this end, following the registration of a formal complaint of harassment, the investigative unit within the DEC will carry out the formal investigative process in accordance with the Service Regulations and Implementing Rules. At various stages of this formal process, the DEC may refer the matter to the CRU for exploration of the options for informal conflict resolution mentioned in Article 3.

D. Selection and activities of confidential counsellors

Article 10
Procedure for selecting confidential counsellors

(1) Confidential counsellors shall be nominated for each place of employment – four each for Munich and The Hague and two each for Vienna and Berlin. The number of confidential counsellors shall be subject to periodic review and shall be adjusted in accordance with the workload, but shall be no less than two per place of employment.

(2) The nominations shall be made by the President of the Office after consulting a centralised selection board for all sites. The nominations shall be for a term of two years, which may be renewed based on the recommendation of the centralised selection board.

(3) The centralised selection board for all sites shall be a paritary body, and shall consist of two members designated by the President of the Office and two members designated by the Staff Committee. Selection board members shall be in active status.

(4) Confidential counsellors shall be selected from among employees in active employment on the basis of their aptitude, skills, training and position of trust in the Office.

(5) The names of the confidential counsellors shall be published.

Article 11
Time deductions for confidential counsellors

(1) The confidential counsellors shall be exempted up to 50% from their official duties for performing their activities as confidential counsellors. They shall manage their working time efficiently to ensure a balance is maintained at all times between their counsellor activities on the one hand and their official duties on the other.

(2) The confidential counsellors shall record the time spent on their counselling duties in accordance with the workflow set up for that purpose.

Article 12
Training of confidential counsellors

Confidential counsellors shall receive appropriate training to enable them to perform their duties. They shall also seek continually to improve their skills and develop best practices by way of peer-to-peer exchanges. In order to facilitate the sharing of knowledge and best practices, a meeting of all the Office's confidential counsellors shall be held twice a year.

Article 13
Activity report

(1) Confidential counsellors, fully respecting their duty of confidentiality, shall provide anonymised input on their activities to the CRU in accordance with the workflow set up for this purpose. They shall furthermore provide anonymised input to the DEC regarding areas of its activities aimed at ensuring the coherent application of ethical standards throughout the Office. The CRU will monitor and periodically review the implementation of this Circular as well as draw up and submit an annual report on the amicable conflict resolution procedure.

(2) The report shall be submitted to the President of the Office no later than three months after the end of the calendar year concerned. The report shall not contain any confidential information or provide information which could lead to the identification of individual persons.

E. Final provisions

Article 14
Final provisions

(1) This Circular shall enter into force on 01 November 2017.

(2) It replaces the previous version of Circular No. 341.

Munich, 19 October 2017

The President of the European Patent Office
Benoît Battistelli

Basic guidelines

Guidelines on arrangements for working hours

Guidelines on arrangements for working hours

(1 July 2010)

Article 1
Guiding principles

(1) In accordance with Article 55(3) of the Service Regulations (ServRegs), these guidelines set out a general framework for the working hours of staff at all EPO places of employment. Subject to the conditions set out in the guidelines, an employee may vary the time of his arrival, breaks and departure from work.

(2) Each employee remains fully responsible for the effective and prompt performance of his duties. Proper use of his freedom to arrange his working time within the framework of these guidelines is part of each individual employee's responsibility for discharging his duties (Article 24(1) ServRegs). To this end he has also to:

- respond to the professional needs of his colleagues and the tasks of his unit;
- safeguard his personal health and wellbeing by inter alia taking due account of the Occupational Health Policy and the Ergonomics Guidelines for Working with Display Screen Equipment. Excessively long working periods such as three consecutive working days of substantially more than nine hours are to be avoided;
- co-operate with his line manager, who remains ultimately responsible for the performance of the unit.

(3) The tool made available under Article 7 is for time administration; its functionality does not substitute these guidelines. The individual employee is responsible for the correct use of the tool.

(4) The line manager shall endeavour to allow his staff the maximum freedom to arrange their working time, whilst safeguarding the interests of the service. The line manager is entitled to know when he can expect his staff to be at work. He may limit an employee's freedom under the present guidelines in order to ensure the proper functioning of the unit, and the performance of its tasks as well as the fulfilment of the duties of the individual employee. The line manager shall remain alert to any use of that freedom that may have negative consequences for the health of an employee. The line manager's prerogative to deviate, in justified cases, from these guidelines in favour of the employee remains unaffected.

(5) The freedom to arrange working time and the use of time accounts under these guidelines is neutral in terms of the calculation of capacity.

Article 2
Working time components

For the purposes of these guidelines:

(1) "Normal working day" is a day of eight working hours and serves as the basis for the administration of time worked.

(2) "Normal working week" means five normal working days from Monday to Friday, resulting in a weekly working time of 40 hours for full-time staff.

(3) A "compressed working week" is a week where, in agreement with the line manager, the daily minimum of six working hours has been regularly reduced on a particular day of the working week to a minimum of four working hours.

(4) "Office hours" means the normal opening hours during which Office building facilities and automation support services are available. Unless otherwise provided by the President for certain areas, office hours are:

Monday - Friday 07.00 - 19.00 hrs

(5) "Core time" means the time slots within a normal working week during which an employee shall be present at work unless his absence is otherwise authorised. The time slots are:

Monday - Friday 10.00 - 11.30 and 14.00 - 15.00 hrs

Article 3
Working time framework

(1) Unless otherwise provided for, an employee shall perform his normal working week at the Office during office hours.

(2) An employee may deviate from a normal working day by working down to a minimum of six hours and up to a maximum of ten hours.

(3) An employee may deviate from the normal working week of 40 hours by working down to a minimum of 35 hours and up to a maximum of 45 hours.

(4) An employee shall not work more than 48 hours per week, including overtime.

(5) Exceptionally, and in duly justified circumstances, the maximum limits laid down in paragraphs (2) and (4) may be exceeded at the request of the employee or, subject to the terms of Article 57 ServRegs, at the request of the line manager. However, the minimum rest periods pursuant to Article 4(4) and (5) must always be observed. Every exception must be recorded by the line manager. Where excess hours are caused by the duration of oral proceedings under the EPC, no such request and no such record is required.

Article 4
Breaks and rest periods

(1) An employee shall not work longer than five hours without a rest break of at least 30 minutes.

(2) A daily lunch break of at least 30 minutes is mandatory for any employee whose working time on a given day exceeds five hours. It must be taken between 11.30 and 14.00 hrs.

(3) Two breaks in the working day of up to 15 minutes, one in the morning and one in the afternoon, are considered as working time.

(4) A minimum daily rest period of 11 hours must be observed between working days.

(5) A minimum weekly rest period of 24 hours plus the 11 hours' minimum daily rest period must be observed between working weeks.

(6) Where shift work or an irregular working pattern so requires, the timing of the breaks shall be adapted.

Article 5
Accrual of time credits

(1) Subject to Article 7(4), an employee wishing to deviate from the normal working week shall enter in the time administration tool any time differences between the hours actually worked and the normal working day.

(2) Subject to a weekly limit of five hours' credit and five hours' debit, the accumulated time differences will, at the end of the week, be automatically recorded in a first time account. The balance of this time account, known as flexi-hours, may not exceed 16 hours' credit or debit at any time.

(3) Time differences accumulated during the current week, but not yet automatically recorded pursuant to paragraph (2), do not constitute time credit or debit until the following week, in particular for the purposes of Article 6.

(4) In addition to and independently of paragraphs (1) and (2), for each eight hours of presence at work an employee accrues 15 minutes of time credit in a second time account. This calculation is made on the basis of the normal working day. The balance of this time account, known as compensation hours, is calculated by the time administration tool and may not exceed 56 hours at any time.

(5) The balance of these time accounts not used or settled at the end of the calendar year will be automatically carried over into the next year.

(6) Accrued time credit is not considered as overtime according to Article 57 ServRegs. It carries no right to remuneration. The balance of the time accounts is not taken into account when assessing the employee's productivity.

Article 6[1]
Use of time credits

(1) Time credits from flexi-hour and compensation hour accounts may be taken as single hours, days or multiples thereof.

(2) The use of time credits from these accounts may be freely combined with each other and with leave.

(3) Subject to the approval of the line manager which, in so far as applicable, is to be provided in accordance with paragraph 5, the use of any time credit must be registered by means of the time administration tool.

(4) In the following cases, an employee shall use his time credits and register his absence in good time so that his line manager is adequately informed of:

(i) any absence during core time, whereby the registration shall include any further absences adjacent to the core time absence;
(ii) working down more than two hours from a normal working day;
(iii) the extent to which the weekly limit of five hours debit pursuant to Article 5(2) is or will be exceeded,

(i) and (ii) not applying if the absence is a consequence of a compressed working week.

(5) Absences of four hours or more per day resulting from the use of time credits, either on its own or combined with any other leave, shall require the prior approval of the line manager. The request for approval shall be submitted to the line manager at least three working days before the planned absence.

In justified cases, the immediate superior may agree to waive the three working days limit for obtaining the authorisation.

Save in exceptional cases, an employee is not permitted to depart when using time credits until his immediate superior has approved the request. In such a case the immediate superior must be informed immediately.

Article 7
Time administration tool

(1) A time administration tool is available.

(2) Use of this tool in accordance with the relevant instructions is a prerequisite for accruing time credit on the flexitime account referred to in Article 5(2) and for using time credit under Article 6.

(3) An employee making no entry in the time administration tool for a particular working day, and not having any other form of absence recorded for that day, will automatically have a normal working day recorded.

1 Amended by decision of the President from 25 September 2013.

(4) No entry pursuant to Article 5(1) needs to be made in the time administration tool for a week in which no time difference according to Article 5(1)-(3) has been accrued.

Article 8
Special provisions

(1) Unless otherwise arranged with the line manager, Articles 2(3) and 5(1)-(3) are not applicable to staff performing shift work (Article 58 ServRegs).

(2) Staff placed on reduced working hours or performance for medical reasons may not accrue flexi-hours pursuant to Article 5(1)-(3). However, they may benefit from all other flexibility arrangements in so far as these are compatible with the individual employee's part-time medical schedule and/or reintegration plan.

(3) The following time does not constitute a time difference within the meaning of Article 5(1)-(3);

- overtime under Article 57(1)-(3) ServRegs;
- shift work under Article 58 ServRegs;
- on call under Article 58a ServRegs

(4) Where an employee has agreed, at the request of the line manager, to work more than the weekly number of hours under any applicable part-time arrangement, he may, but is not obliged to, enter those extra hours in part or in full under Article 5(1) in his flexi-hour account. The employee is entitled to compensatory leave for any such hours worked but not so recorded.

(5) The normal working day as defined in Article 2(1) is reduced, for part-time staff, in accordance with their working schedule for the day concerned and, for examiners of the former IIB, to seven hours. For part-time staff and for examiners of the former IIB the normal working week is reduced accordingly.

(6) Irrespective of the employee's working pattern, one full/half day of absence corresponds to eight/four hours for an employee working full-time, to be reduced accordingly for part-time staff and examiners of the former IIB.

(7) For each employee on part-time the periods of mandatory presence at work on each day of the working week are normally the core times falling within their established working hours.

(8) For medical visits the provisions of Circular 22 apply, however, no positive time difference may be entered pursuant to Article 5 of the present guidelines for a day on which sick leave for a medical visit is claimed under Circular 22.

(9) Employees undertaking duty travel may record travelling time spent during office hours in full, and one further hour for each leg of the trip that takes place outside office hours. Travelling time does not count towards the maximums set out in Article 3.

(10) Upon termination of employment, any remaining time debit will be set off against the annual leave balance or, if this is not possible, against remuneration as set out in Circular 22, Rule 5(f)(iv).

Boards of Appeal Committee

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention (hereinafter referred to as "EPC") and in particular Articles 4(3), 23 and 33(2)(e) thereof,

Having regard to Rules 12a and 12c of the Implementing Regulations to the EPC,

Having regard to Article 14 of the Rules of Procedure of the Administrative Council of the European Patent Organisation,

Having regard to the Act of Delegation by the President of the European Patent Office,

In agreement with the President of the European Patent Office,

HEREBY SETS UP A BOARDS OF APPEAL COMMITTEE AND ADOPTS THE FOLLOWING REGULATIONS[1]:

Article 1
Definitions and scope

(1) (a) "President of the Boards of Appeal" shall have the meaning defined in Rule 12a(1) of the Implementing Regulations to the EPC;
(b) "Boards of Appeal Unit" shall have the meaning defined in Rule 12a(1) of the Implementing Regulations to the EPC.

(2) These Regulations shall govern the composition and tasks of the Boards of Appeal Committee.

Article 2
Composition of the Boards of Appeal Committee

(1) The Boards of Appeal Committee shall be composed of:

(a) three members appointed by the Administrative Council from among the delegations of the Contracting States within the meaning of Article 26 EPC and Article 2 of its Rules of Procedure,
(b) three members proposed by the delegations and appointed by the Administrative Council from among serving or former judges of international or European courts or of national courts of the Contracting States.

(2) Each member shall have an alternate appointed by the same procedure.

(3) The Boards of Appeal Committee shall elect a Chairman and a Deputy Chairman from among the members referred to in paragraph (1)(a) above.

1 Decision by the Administrative Council CA/D 7/16.

(4) The President of the Office and the President of the Boards of Appeal, the latter representing the Boards of Appeal Unit, shall be entitled to participate in all meetings of the Boards of Appeal Committee.

(5) The term of the members and the alternate members shall be three years. It shall be renewable or extendable.

Article 3
Meetings

(1) Meetings of the Boards of Appeal Committee shall be summoned by the Chairman.

(2) Each member of the Boards of Appeal Committee shall have a vote. The Chairman shall have a casting vote.

(3) The Boards of Appeal Committee shall hold ordinary meetings twice a year; an extraordinary meeting may be called by the Chairman or half of its members.

(4) The procedural rules of the Administrative Council shall also apply to the Boards of Appeal Committee. However, the present Regulations or the Boards of Appeal Committee may stipulate otherwise, except where the Rules of Procedure of the Administrative Council expressly apply to subsidiary bodies.

Article 4
Tasks of the Boards of Appeal Committee

(1) As a subsidiary body of the Administrative Council, the Boards of Appeal Committee shall advise and assist the Administrative Council in its supervisory duties under Article 4(3) EPC in so far as these relate to the Boards of Appeal Unit.

(2) To this end, the Boards of Appeal Committee shall

(a) monitor the independence of the Boards of Appeal Unit, make recommendations and advise the President of the Boards of Appeal on measures to enhance its organisational and managerial autonomy;
(b) monitor the efficiency of the Boards of Appeal Unit, make recommendations and advise the President of the Boards of Appeal on setting general objectives for the members and Chairmen of the Boards of Appeal and the members of the Enlarged Board of Appeal in handling the caseload and reducing the length of proceedings;
(c) provide general guidance on the management of the Boards of Appeal Unit, including on recruitment issues and on criteria for performance evaluation;
(d) assess the Boards of Appeal Unit's general performance, make recommendations and advise the President of the Boards of Appeal on principles for setting performance criteria and general criteria for case distribution;

(e) give an opinion on the draft annual report of the Boards of Appeal drawn up by the President of the Boards of Appeal, before it is submitted to the Administrative Council together with the comments of the President of the Office;
(f) give an opinion on any request by the President of the Office concerning the Boards of Appeal Unit;
(g) give an opinion on the substantiated budget request for staff, equipment and other resources needed to meet the Boards of Appeal Unit's objectives, drawn up by the President of the Boards of Appeal and finalised by him after examination by and discussion with the relevant Office departments, before it is forwarded to the President of the Office for consideration for the yearly draft budget;
(h) give an opinion on the President of the Boards of Appeal's implementation of the yearly budget allocated to the Boards of Appeal Unit;
(i) carry out, where necessary, user consultations on matters of direct concern to users, such as proposals to amend the Rules of Procedure of the Boards of Appeal and of the Enlarged Board of Appeal.

(3) The Boards of Appeal Committee shall adopt, on a proposal by the President of the Boards of Appeal, the Rules of Procedure of the Boards of Appeal and of the Enlarged Board of Appeal, before they are submitted to the Administrative Council for approval.

(4) A joint proposal for appointment of the President of the Boards of Appeal shall be made by the Boards of Appeal Committee and the President of the Office.

(5) The Chairman of the Boards of Appeal Committee shall ensure that the Administrative Council receives all necessary information.

(6) The Boards of Appeal Committee may entrust certain tasks to a smaller group, subject to authorisation by the Administrative Council.

(7) The Boards of Appeal Committee may call upon experts or advisers either on an ongoing or an ad hoc basis, as the circumstances require.

Article 5
Entry into force

These Regulations shall enter into force on 1 July 2016.

Done at Munich, 30 June 2016

For the Administrative Council

The Chairman
Jesper KONGSTAD

Independent oversight mechanism for the processing of personal data by the Boards of Appeal in their judicial capacity

Oversight mechanism for processing of personal data

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention and in particular Article 23, paragraph 3, thereof,

Having regard to the Implementing Regulations to the European Patent Convention and in particular Rule 12a(2) thereof,

Having regard to decision CA/D 5/21 introducing a new data protection framework at the European Patent Office, and in particular Article 32a, paragraph 7, of the Service Regulations for permanent and other employees of the European Patent Office (hereinafter referred to as "Service Regulations") and Article 2, paragraph 6, of the Implementing Rules for Articles 1b and 32a Service Regulations (hereinafter referred to as "Data Protection Rules"),

Considering that the present decision shall apply only to the processing of personal data by the Boards of Appeal in their judicial capacity,

On a proposal from the President of the Boards of Appeal, submitted after consulting the Presidium of the Boards of Appeal and the Boards of Appeal Committee,

HAS DECIDED AS FOLLOWS[1]:

Article 1
General provisions

(1) An independent oversight mechanism for the processing of personal data by the Boards of Appeal acting in their judicial capacity is established.

(2) Where the Boards of Appeal act in their judicial capacity, the mechanism laid down in the present decision applies instead of Articles 49 to 52 Data Protection Rules. In the application of this mechanism, references in the Data Protection Rules to the application of Articles 49 to 52 thereof shall be interpreted as referring, where possible, to the application of the corresponding provisions laid down in the present decision.

(3) In case of conflict, the provisions of the EPC, including its Implementing Regulations and any other provisions applicable under it, in particular the Rules of Procedure of the Enlarged Board of Appeal (OJ EPO 2015, A35), the Rules of Procedure of the Boards of Appeal (OJ EPO 2024, A15), the Additional Rules of Procedure of the Disciplinary Board of Appeal (OJ EPO 2007, 548f), and the provisions of the PCT, including its Regulations and any other provisions, prevail over the present decision and the Data Protection Rules.

(4) The independent oversight mechanism is applicable to requests concerning pending appeals before the Boards of Appeal only to the extent that the provisions of the EPC as referred to in paragraph 3 do not provide a legal

1 Decision by the Administrative Council CA/D 19/24.

basis for such requests. Decisions taken under the independent oversight mechanism, in accordance with the fundamental principle of judicial independence, shall not interfere with decisions taken by boards of appeal under the provisions of the EPC.

(5) All terms and pronouns referring to persons in this decision apply irrespective of gender.

Article 2
Request for review

(1) Data subjects who consider that the processing of their personal data by the Boards of Appeal in their judicial capacity infringes their rights as a data subject under the Data Protection Rules may request that the Data Protection Co-ordinator of the Boards of Appeal review the matter and take a decision. The request shall be submitted no later than three months from the day on which the data subject was informed or otherwise became aware of the processing of personal data allegedly infringing their rights.

(2) When examining a request filed by a data subject, the Data Protection Co-ordinator of the Boards of Appeal shall, where appropriate, invite the deciding board to set out in writing their position on the claims and facts at issue and to provide evidence or comments and arguments on evidence already at hand.

(3) The Data Protection Co-ordinator of the Boards of Appeal may consult the support services of the Boards of Appeal and the Data Protection Officer before taking a decision.

(4) The decision under paragraph 1 above shall be taken within one month of receipt of the request, and communicated to the data subject in writing, indicating the means of redress provided for in Article 3. This time limit may be extended by two months where necessary, taking into account the complexity and number of the requests. If an extension of the standard time limit is required, the Data Protection Co-ordinator of the Boards of Appeal shall duly notify the data subject of this and the reasons for the delay within one month of receipt of the request for review. If the Data Protection Co-ordinator of the Boards of Appeal fails to take any action by the end of a period of three months, this will be deemed an implicit rejection of the request.

(5) A decision or implicit rejection by the Data Protection Co-ordinator of the Boards of Appeal under this article is a condition for filing a complaint with the controller under Article 3.

(6) Where appropriate, the deciding board shall be notified of any decision on the request for review by the Data Protection Co-ordinator of the Boards of Appeal.

(7) The Data Protection Co-ordinator of the Boards of Appeal shall be appointed by the President of the Boards of Appeal from among

the staff members of the support services of the Boards of Appeal. The decision appointing them may also further specify their tasks.

Article 3
Complaint to the controller

(1) Data subjects may challenge the decision taken under Article 2, paragraph 1, by filing a complaint with the controller within three months of receipt of the decision in accordance with Article 2, paragraph 4, or, in the case of an implicit rejection, of the date of expiry of the time limit for deciding on the request for review.

(2) When examining a complaint filed by a data subject, the controller shall invite the data subject, the Data Protection Co-ordinator of the Boards of Appeal and, where appropriate, the deciding board to set out in writing their position on the claims and facts at issue and to provide evidence or comments and arguments on evidence already at hand.

(3) Before taking a decision, the controller may consult the support services of the Boards of Appeal and the Data Protection Officer.

(4) After examining the complaint, the evidence and any relevant additional written input, the controller shall issue a reasoned decision on the complaint. If the controller finds that the processing of the data subject's personal data by the Boards of Appeal in their judicial capacity was unlawful, they may decide that compensation for material and/or non-material damage be awarded.

(5) The data subject, the Data Protection Co-ordinator of the Boards of Appeal and, where appropriate, the deciding board shall be notified of any decision taken by the controller on the complaint.

(6) A copy of the decision of the controller shall be provided to the President of the Office and to the Data Protection Officer.

Article 4
Appeal to the Board of Appeal for the judicial processing of personal data

(1) Data subjects may challenge the decision taken under Article 3 by filing an appeal with the Board of Appeal for the judicial processing of personal data within three months of receipt of the decision notified in accordance with Article 3, paragraph 5.

(2) The members of the Legal Board of Appeal shall be internal members of the Board of Appeal for the judicial processing of personal data. The Chair of the Legal Board of Appeal shall chair the Board of Appeal for the judicial processing of personal data.

(3) The Administrative Council, after consulting the President of the Boards of Appeal, may also appoint external members to the Board of Appeal for the judicial processing of personal data. External members shall be

legally qualified members of the national courts or quasi-judicial authorities of the Contracting States, who may continue their judicial activities at the national level. They shall be appointed for a term of three years and may be re-appointed. The Regulation on the appointment and conditions of employment of members of the Enlarged Board of Appeal appointed under Article 11, paragraph 5, of the European Patent Convention shall apply, mutatis mutandis, to external members of the Board of Appeal for the judicial processing of personal data. Privileges and immunities granted to members of the Enlarged Board of Appeal appointed under Article 11, paragraph 5, EPC shall apply, mutatis mutandis, to external members of the Board of Appeal for the judicial processing of personal data.

(4) The Board of Appeal for the judicial processing of personal data shall consist of three members in a particular appeal.

(5) Article 24 EPC shall apply mutatis mutandis to proceedings before the Board of Appeal for the judicial processing of personal data. Members, including the Chair, who were directly involved in the data processing operation deemed to infringe the data subject's rights under the Data Protection Rules may not take part in the ensuing proceedings before the Board of Appeal for the judicial processing of personal data.

(6) In the absence of a business distribution scheme for the Board of Appeal for the judicial processing of personal data, the business distribution scheme of the Legal Board of Appeal shall apply mutatis mutandis to the Board of Appeal for the judicial processing of personal data. The Presidium of the Boards of Appeal in its composition in accordance with Rule 12b, paragraph 4, EPC may adopt a business distribution scheme for the Board of Appeal for the judicial processing of personal data.

(7) In their decisions the members of the Board of Appeal for the judicial processing of personal data shall not be bound by any instructions.

Article 5
Procedure before the Board of Appeal for the judicial processing of personal data

(1) The procedure before the Board of Appeal for the judicial processing of personal data shall be a written procedure, unless the board considers oral proceedings to be expedient.

(2) The appeal shall contain the data subject's complete case and set out all the facts, arguments, and evidence relied on for setting aside or amending the decision in accordance with Article 3.

(3) The controller shall receive a copy of the appeal and shall have the opportunity to comment on it within a period of one month. Exceptionally, at the request of the controller, this period may be extended by up to two months.

(4) The Board of Appeal for the judicial processing of personal data may exercise any power within the competence of the controller under Article 3.

(5) The proceedings before the Board of Appeal for the judicial processing of personal data will not be public, unless it decides otherwise for parts of, or the entire proceedings.

(6) Any decision by the Board of Appeal for the judicial processing of personal data on the appeal shall be final.

(7) The data subject, the Data Protection Co-ordinator of the Boards of Appeal, the President of the Boards of Appeal and, where appropriate, the deciding board shall be notified of any decision by the Board of Appeal for the judicial processing of personal data on the appeal.

(8) The Board of Appeal for the judicial processing of personal data shall provide a copy of its final decision to the President of the Office and to the Data Protection Officer. An anonymised version of the final decision will be published, unless the Board of Appeal for the judicial processing of personal data decides otherwise.

Article 6
Rules of Procedure of the Board of Appeal for the judicial processing of personal data

The procedure laid down in Rule 12c, paragraph 2, EPC, shall apply mutatis mutandis to the adoption of the Rules of Procedure of the Board of Appeal for the judicial processing of personal data. These Rules of Procedure shall be subject to the approval of the Administrative Council.

Article 7
Entry into force

This decision shall enter into force on 1 March 2025. Provision is made for a transitional period of six months from the entry into force of this decision. During this period, the data protection documentation whose implementation is contingent on the scope of the independent oversight mechanism will be finalised.

Done at Munich, 11 December 2024

For the Administrative Council

The Chairperson
Josef KRATOCHVÍL

Pension scheme regulations and implementing rules

Pension scheme regulations

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AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND
THE EUROPEAN PATENT ORGANISATION ON THE IMPLEMENTATION OF ARTICLE 12 OF THE PENSION SCHEME REGULATIONS OF THE EUROPEAN PATENT OFFICE 71

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33, paragraph 2 c), thereof,

[1]Having regard to the Service Regulations for Permanent and other Employees of the European Patent Office,

HAS ADOPTED THE FOLLOWING PENSION SCHEME REGULATIONS OF THE EUROPEAN PATENT OFFICE:

CHAPTER I
GENERAL PROVISIONS

Article 1[2]
Scope

(1)[3] The pension scheme established by these Regulations shall apply to the permanent employees of the European Patent Office, hereinafter referred to as "the Office", within the meaning of Article 1 of the Service Regulations for permanent and other employees of the Office.

(2) Save as otherwise expressly laid down for the Office, this scheme applies also to permanent employees, holding indefinite term or definite or fixed term appointments in the following Organisations, in accordance with the decisions taken by the Councils of these Organisations:

- the Council of Europe;
- the Organisation for Economic Co-operation and Development (OECD);
- the European Space Agency (ESA) (ex European Organisation for the Development and Construction of Space Vehicle Launches (ELDO) and European Space Research Organisation (ESRO));
- the North Atlantic Treaty Organisation (NATO);
- the Western European Union (WEU), and
- the European Centre for Medium-Range Weather Forecasts.

(3) This scheme shall not apply to other categories of personnel defined in each Organisation, such as experts, consultants, temporary staff, auxiliary staff, employees and personnel hired under local labour legislation, etc.

(4) In these Regulations the term "employee" or "permanent employee" means

1 Modified by decision of the Administrative Council CA/D 2/18.
2 Amended by decision of the Administrative Council CA/D 17/23, see transitional provisions:
Article 5
(1) Notwithstanding Articles 14a(6) and 65(1)(d) ServRegs, employees in service before 1 January 2024 who entered into a registered partnership before that date may, but need not, inform the Office of their registered partnership.
(2) By way of derogation from Article 65(1)(c) ServRegs, should employees referred to in paragraph 1 choose to not inform the Office of their registered partnership by 30 June 2024, they will permanently forfeit all related entitlements and benefits.
3 Modified by decision of the Administrative Council CA/D 2/18.

the staff referred to in paragraphs 1 and 2 above. The term "Organisation" refers to the European Patent Organisation or Office, as the case may be, and to the Organisations listed in paragraph 2.

(5)[1] For the purpose of these Regulations, a registered partnership shall be treated as a marriage provided that the registered partnership has been legally recognised in one of the Contracting States.

Article 2[2]
Deferred entitlement

Where the medical examination which every employee has to undergo at the time of his appointment shows him to be suffering from an illness or disablement, the Office may decide that, as regards risks arising from an illness or disablement existing before he took up his duties, the said employee shall not be entitled to the death benefits provided for in these Regulations until the expiry of a period not exceeding five years from the date on which he entered the service of the Organisation. If an employee leaves one of the Organisations listed in Article 1, paragraph 2, and takes up employment in the Office within a period of not more than six months, the time spent in the service of that Organisation shall be deducted from this five-year period.

Article 3
Definition of salary

(1)[3,4] For the purposes of these Regulations, salary shall be the monthly basic salary of the employee as defined in Article 64, paragraph 2, of the Service Regulations for permanent and other employees of the European Patent Office.

(2) The minimum salaries taken into consideration for the calculation of pensions shall be those of serving employees, whether in respect of pensions to be paid in the future or those actually being paid.

Article 4
Definition of service conferring entitlement to benefits

(1) Subject to the provisions of Articles 5 and 41, paragraph 1, entitlement to benefits under these Regulations shall be determined by the total of the periods actually served in the Organisations listed in Article 1:

(i) as an employee as defined in Article 1;
(ii) in any other capacity prior to permanent appointment, provided any periods so served were not separated by breaks of more than one year.

(2) The following shall also be taken into account:

1 Inserted by decision of the Administrative Council CA/D 17/23.
2 Amended by decision of the Administrative Council CA/D 30/07.
3 Amended by decision of the Administrative Council CA/D 17/08.
4 Modified by decision of the Administrative Council CA/D 2/18.

(i)[1,2] periods of incapacity in accordance with Article 62b of the Service Regulations for permanent and other employees of the Office;

(ii)[3,4] periods of non-active status in respect of which pension scheme contributions have been paid in accordance with Articles 43, 44, 44a and 44b of the Service Regulations for permanent and other employees of the Office;

(iii)[5] periods of entitlement to the allowance for reserve status provided for in the Service Regulations for permanent and other employees of the Office, up to a maximum of five years, subject to the employee concerned having paid his pension contributions during such periods.

Article 5
Calculation of service conferring entitlement to benefits

(1) Where an employee appointed by the Office has previously served with one of the Organisations listed in Article 1, his entitlement to benefits under the terms of Article 4 shall be conditional upon his paying over to the Office the amounts paid to him on leaving his previous service

(i) pursuant to Article 11,

(ii) in respect of his Provident Fund holding, within the limits laid down in the transitional provisions under the Pension Scheme Rules applicable to one of the Organisations listed in Article 1 and with which he served,

plus compound interest on such amounts at 4 per cent per annum from the date when the employee received them until the date when they are paid over in accordance with this paragraph.

Should the employee fail to pay over the amounts in question, reckonable service shall count only as from the new appointment.

(2) Where an employee appointed by the Office was previously drawing a retirement pension in respect of service with one of the Organisations listed in Article 1, payment of that pension shall cease.

If the employee refunds to the Office the pension payments he has received, the provisions of Article 4 shall apply on termination of his employment at the Office.

If he does not make this refund, the years of service for which credit was acquired in the employment that originally entitled him to payment of the discontinued retirement pension shall be taken into account, in the calculation of the retirement pension due on cessation of his new employment, by reference to the salary for his last grading in such previous employment; moreover, that part of the final pension figure shall be abated by 5 per cent for each whole year during which the employee drew the initial pension

1 Amended by decision of the Administrative Council CA/D 2/15.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 Amended by decision of the Administrative Council CA/D 8/22.
4 Modified by decision of the Administrative Council CA/D 2/18.
5 Modified by decision of the Administrative Council CA/D 2/18.

before the age of sixty.

(3) Where an employee retires at a grade and step lower than that which he had previously held in the Office or in a previous Organisation his entitlement to benefits under these Regulations shall be determined by taking into account the total of his years of service and the benefits shall be calculated on the basis of the salary for the highest grading held by him. However, a reduction shall be made in the number of years of service to be credited to him in respect of time served at a lower grade and step after having held the grade by reference to which benefits are calculated; this reduction shall be proportionate to the difference between the said gradings.

(4) For the implementation of paragraphs 2 and 3 above, salaries shall be taken into account in accordance with the scales in force when the final pension assessment is made.

(5) The periods referred to in Article 4, paragraph 1 (ii), shall be credited on condition that:

(i) the employee submits an application to that effect within six months following his appointment as a permanent employee governed by the Service Regulations, specifying the periods of service which he wishes to be credited;
(ii) the Office gives its agreement;
(iii) [1]the employee, for each month of service to be credited, pays an amount corresponding to the percentage referred to in Article 41, paragraph 1, of his first monthly salary as a permanent employee."

Article 6
Reckonable years of service

(1) The benefits provided for under these Regulations shall be calculated by reference to reckonable years of service consisting of:

(i) the total length of service in the Organisations listed in Article 1, calculated in accordance with Articles 4 and 5;
(ii) service credited in accordance with Article 12, paragraph 1.

(2)[2] Incomplete years of reckonable service shall be credited on the basis of one twelfth of a year for each whole month of service. For pension calculation purposes, the period remaining shall be treated as a whole month if it is equal to or more than 15 days.

However, the period remaining shall not be taken into account for the purpose of calculating the minimum of 10 years' service required for entitlement to the retirement pension provided for in Article 7 of the Regulations.

1 Decision of the Administrative Council CA/D 3/07. This decision shall enter into force on 1 April 2007. See also footnote to Article 41.
2 Paragraph 2 amended with effect from 04.06.1981 by decision of the Administrative Council CA/D 5/81.

(3)[1] The method of crediting part-time service and periods of incapacity during which the employee paid reduced contributions to the pension scheme shall be laid down in the Implementing Rules hereto.

CHAPTER II
RETIREMENT PENSION AND SEVERANCE GRANT

Section 1
Retirement pension

Article 7
Conditions of entitlement

An employee who has completed ten or more years actual service, within the meaning of Article 4, in one or more of the Organisations listed in Article 1 shall be entitled to a retirement pension.

Article 8
Age of entitlement - Deferred pension and early pension

(1) Employees shall become eligible for a retirement pension at the age of sixty.

(2) Pension rights shall continue to accrue to an employee remaining in the service after pensionable age, but his pension shall not exceed the maximum amount laid down in Article 10, paragraph 2.

(3) If an employee retires before pensionable age, payment of his retirement pension shall be deferred until he reaches that age.

(4) However, an employee who retires before pensionable age may request early payment of his pension provided he is at least fifty years old.

In such cases the retirement pension shall be reduced by reference to the age of the employee when he starts to draw his pension, as shown in the table[2] below.

1 Amended by decision of the Administrative Council CA/D 2/15.
2 Amended by decision of the Administrative Council CA/D 30/07.

Age when payment of pension begins	Ratio of pension on early retirement to pension at 60
50	0.51
51	0.54
52	0.57
53	0.61
54	0.65
55	0.77
56	0.81
57	0.85
58	0.90
59	0.95

Article 9
Commencement and cessation of entitlement

(1) Entitlement to payment of a retirement pension shall commence on the first day of the month following that in which the employee became eligible for such pension.

(2) Entitlement shall cease at the end of the month in which the employee dies.

Article 10[1]
Rate of pension

(1) Except where paragraphs 2 and 3 of Article 5 apply, the amount of the retirement pension shall be, per reckonable year of service within the meaning of Articles 4 and 6, 2% of the salary paid in respect of the last step the employee had reached in the last grade held by him for not less than one year before retirement.

(2) The maximum amount of the pension shall be 70% of this salary, subject to the provisions of paragraph 3 below.

(3) The amount of the retirement pension shall not be less than 4% of the salary for grade G1, step 4, per reckonable year of service credited pursuant to Articles 4 and 6; it may not, however, exceed the employee's last salary as defined in Article 3 above. If he was employed on a part-time basis when he left the Office, the minimum retirement pension as defined in this paragraph shall be reduced proportionately.

(4) Notwithstanding the provisions of paragraph 1, where at the time of termination of his service an employee was working part-time or was totally or partially discharged from his duties for reasons of incapacity under Article 62b of the Service Regulations, the salary taken into account shall be the one which he would have received for full-time work.

1 Amended by decision of the Administrative Council CA/D 2/15.

Section 2
Severance grant

Article 11[1]
Severance grant

An employee whose service terminates otherwise than by reason of death and who is entitled neither to a retirement pension nor to the benefit of the provision in Article 12, paragraph 2, shall be entitled upon leaving the service to payment of

(i) the aggregate amount deducted from his salary in respect of his pension contributions, together with compound interest at the rate of 4% per annum;

(ii)[2,3] a severance grant equal to one month and a half of his last salary multiplied by the number of reckonable years of service credited within the meaning of Article 6, without prejudice to the reduction provided for in Article 94, paragraph 1(h), of the Service Regulations for permanent and other employees of the Office;

(iii) one third of the amounts paid to the Office under Article 12, paragraph 1, together with compound interest at the rate of 4% per annum. However, if these amounts have to be refunded in their entirety to his previous employer, the reckonable years of service corresponding to those amounts shall be disregarded in the calculation of the severance grant.

Section 3
Inward and outward transfer of pension rights

Article 12[4/5]
Inward and outward transfer of pension rights

(1) An employee who enters the service of the Office after leaving the service of a government department, a national organisation, an international organisation or a firm, may arrange for payment to the Organisation in accordance with the Implementing Rules hereto, of any amounts corresponding to the retirement pension rights accrued under his previous pension schemes, provided that those schemes allow such transfers to be made. In such cases the Office shall determine, by reference to the Implementing Rules hereto, the number of years of reckonable service with which he shall be

1 Amended by decision of the Administrative Council CA/D 2/15.
2 Amended by decision of the Administrative Council CA/D 7/17.
3 Modified by decision of the Administrative Council CA/D 2/18.
4 Modified by decision of the Administrative Council CA/D 7/04; see „Implementing Rules". See also the Agreement between the FRG and the EPO on the implementation of Art. 12 of the Pension Scheme Regulations of the EPO in the annex.
5 Those staff who were subject to the Pension Scheme Regulations of the European Patent Office prior to 1 July 2004 shall continue to benefit from the provisions contained in the text of Article 12 of the Pension Scheme Regulations and the Implementing Rules thereto that were in force prior to that date for transfers of pension rights from the last pension scheme of which they were members prior to their entry into the Office's service.

credited under its own pension scheme.

(2) An employee who leaves the service of the Office to enter the service of a government department, a national organisation, an international organisation, or a firm, shall be entitled to transfer to his new pension scheme:

- the actuarial equivalent of his retirement pension rights accrued under these Regulations, such equivalent being calculated in accordance with the Implementing Rules hereto;
- or, in the absence of such rights, the amounts stipulated in Article 11.

CHAPTER III[1/2]
RETIREMENT PENSION FOR HEALTH REASONS

Article 13[3]
Conditions of entitlement

(1) A retirement pension for health reasons shall be payable to an employee who is under the age limit laid down in Article 54, paragraph 1(a) of the Service Regulations and who, at any time during the period in which pension rights are accruing to him, has reached 55 years of age and has been totally discharged from his duties for reasons of incapacity as defined in Article 62b of the Service Regulations for ten years.

(2) The employee shall be retired on the first day of the month following that in which he fulfilled the conditions laid down in paragraph 1.

Article 14[4]
Rate of pension

(1) Subject to Article 5, paragraph 3, the retirement pension for health reasons shall be calculated as foreseen in Article 10.

(2) If the employee has not yet reached the age of sixty years at the date of retirement, the following shall apply in addition:

- the number of reckonable years shall be calculated as if he had remained in the service until the age of sixty years;
- for the period of time between the date of retirement and the end of the month the employee reaches the age of sixty years, the reference salary shall be 70% of the salary laid down in Article 10, paragraph 4.

1 Amended by decision of the Administrative Council CA/D 2/15.
2 See also the transitional measures in Articles 71 to 74 in CA/D 2/15.
3 Inserted by decision of the Administrative Council CA/D 2/15.
4 Inserted by decision of the Administrative Council CA/D 2/15.

Article 15[1]
Gainful activities or employment

(1) The former employee in receipt of a pension under this Chapter is not allowed to perform any gainful activities or employment.

(2) The above shall apply only up to the age limit laid down in Article 54, paragraph 1(a), of the Service Regulations.

CHAPTER IV
SURVIVOR'S PENSION

Article 18[2]
Conditions of entitlement

(1)[3] A survivor's pension shall be payable to the surviving spouse

(i) of an employee who died in service, provided they had been married to each other for at least one year at the time of the employee's death;
(ii) of a former employee entitled to a deferred pension, if they had been married to each other for at least one year at the time when the employee left the service or for at least ten years at the time of his death;
(iii) of an employee drawing a retirement pension for health reasons, if they were married to each other at the time of his retirement, or had been married to each other for at least five years at the time of his death;
(iv) of a former employee drawing a retirement pension, if they had been married to each other for at least one year at the time of his retirement or for at least five years at the time of his death.

The last-mentioned period shall be extended to ten years if the employee had retired before reaching the age of sixty years.

(2) The conditions laid down above with regard to minimum duration of the marriage shall be waived where there are one or more children of the marriage or of a marriage of the employee contracted prior to his leaving the service inasmuch as the surviving spouse is providing for their needs; in such case the survivor's pension shall be payable under the derogation provided for in the present paragraph, for so long as the children are actually being so provided for.

When they are no longer being so provided for, the survivor's pension shall nonetheless continue to be payable for so long as the surviving spouse does not have an income of his own from the exercise of any occupation, or from any retirement pension or other survivor's pension, equal to at least the amount of the above-mentioned survivor's pension.

1 Inserted by decision of the Administrative Council CA/D 2/15.
2 Amended by decision of the Administrative Council CA/D 14/79.
3 Amended by decision of the Administrative Council CA/D 2/15.

(3) The award of a survivor's pension shall be subject to the provisions of Article 2.

Article 19[1]
Rate of pension

(1) The pension of the survivor of an employee or former employee shall be 60% of

(i) the retirement pension that would have been payable to the employee, had he not died in service, on the basis of his reckonable service credited up to the time of his death, without the need for a minimum of ten years' service under the provisions of Article 7;
(ii) the deferred retirement pension that would have been paid to the employee at the age of sixty;
(iii) the retirement pension payable to the employee at the time of his death, disregarding any reductions under Article 8, paragraph 4.

(2) The survivor's pension shall not be less than 35 per cent of the employee's last salary; nor shall it be less than the salary for grade G1, step 4.

(3) However, the survivor's pension shall not exceed the amount of the former employee's own pension in the cases covered by paragraph 1(ii) and (iii) above.

Article 20
Reduction for difference in age

Where the difference in age between the deceased employee and the surviving spouse (the latter being the younger), less the length of time they have been married, is more than ten years, the survivor's pension, calculated in accordance with the foregoing provisions, shall be subject to a reduction, per year of residual difference, amounting to:

- 1% for the years between 10 and 20;
- 2% for the years 20 up to but not including 25;
- 3% for the years 25 up to but not including 30;
- 4% for the years 30 up to but not including 35;
- 5% for the years from 35 upwards.

Article 21[2]
Remarriage

Entitlement to a survivor's pension shall cease on remarriage. The survivor shall be entitled to immediate payment of a capital sum equal to twice the annual amount of the survivor's pension, if there are no dependent children to whom the provisions of Article 25, paragraph 3, apply.

1 Amended by decision of the Administrative Council CA/D 2/15.
2 Amended by decision of the Administrative Council CA/D 14/79.

Article 22[1]
Rights of a former spouse (divorced spouse)

(1) The former spouse of a non-remarried employee shall, on his death, be entitled to a survivor's pension, provided the employee was, by virtue of a court decision which has become final and binding, under an obligation to pay maintenance to the former spouse; but the survivor's pension shall not exceed the amount of such maintenance.

This entitlement shall not arise if the former spouse remarried before the employee died. If remarriage takes place after the employee's death, Article 21 shall apply.

(2) Where an employee dies leaving a spouse entitled to a survivor's pension and a non-remarried former spouse fulfilling the conditions laid down in paragraph 1 above, the whole of the survivor's pension shall be divided between the aforementioned persons in proportion to the duration of their marriages.

The amount to which a non-remarried former spouse is entitled shall not, however, be more than the amount of the maintenance payable at the time of the death of the employee.

(3) Where one of the persons entitled to a survivor's pension dies, renounces his share or forfeits his rights under Article 35, or where the amount of his pension has been restricted under the terms of the second sub-paragraph of paragraph 2 above, his share shall accrue to the share of the other person, except where pension rights revert to orphans, as provided for under Article 25, paragraph 2, second sub-paragraph. In such case the restriction laid down in the second sub-paragraph of paragraph 2 above shall apply.

(4) Reductions in respect of difference in age as provided for in Article 20 shall be applied separately to pensions calculated in accordance with the present Article.

Article 23
Commencement and cessation of entitlement

(1) Entitlement to a survivor's pension shall commence on the first day of the month following that in which the employee died. However, this pension shall not become payable until the last payment has been made of the salary, due to the deceased employee under the Service Regulations and rules applicable to employees of the Office.

(2) Entitlement to a survivor's pension shall cease at the end of the month in which the recipient of the pension dies or ceases to satisfy the conditions for entitlement to that pension.

1 Amended by decision of the Administrative Council CA/D 14/79.

Article 24[1]
Incapacitated widower

(1) Where his income does not amount to the survivor's pension provided for in Article 19, the husband of a deceased female employee who can supply evidence that at the time of her death he was permanently incapacitated by disablement or serious illness from engaging in gainful employment, may receive a survivor's pension under the terms of these Regulations.

(2) If the husband remarries, payment of the pension shall cease.

(3) The present provisions shall apply only where the death of the female employee occurred:

(i) before 1 January 1979;
(ii) after 1 January 1979, if the female employee was already affiliated to the Pension Scheme before 1 January 1979, and the amendments made with effect from 1 January 1979, to Article 18, paragraph 1(iii) and (iv), and 2, of the Pension Scheme Regulations precluded the surviving spouse from entitlement to a survivor's pension.

1 Amended by decision of the Administrative Council CA/D 14/79.

CHAPTER V
ORPHAN'S OR DEPENDANT'S PENSION

Article 25[1]
Rate of pension

(1)[2] Where an employee still serving or entitled to an outright or deferred retirement pension dies, his children or other dependants shall be entitled to a pension under the terms of paragraphs 2 and 3 below.

(2) Where the employee dies leaving a spouse entitled to a survivor's pension, the pension referred to in paragraph 1 above shall be:

- 40% of the survivor's pension, disregarding any reductions pursuant to Article 20, but not less than half the salary for Grade G1, step 4[3];
- increased in respect of the second and every further beneficiary by an amount equal to the allowance for a dependent child.

The pensions referred to in this paragraph shall be brought up to the levels provided for in paragraph 3 in the event of the spouse entitled to a survivor's pension dying, remarrying or losing her rights to that pension.

(3) Where the employee dies without leaving a spouse entitled to a survivor's pension, the pension referred to in paragraph 1 above shall be:

- 80% of the theoretical survivor's pension, disregarding any reductions pursuant to Article 20, but not less than the salary for Grade G1, step 4[4];
- increased in respect of the second and every further beneficiary by an amount equal to twice the allowance for a dependent child.

(4) Notwithstanding the provisions of Article 26, children in common by blood or adoption of two married, unmarried or divorced employees shall be entitled to a pension under this Article following the death of the employee who was not being paid the dependant's allowance at the time of his death if the said children were, at that time, subject to the parental responsibility of this employee and continuously supported by him.

In the case of divorced employees, entitlement shall be subject to the obligation, by virtue of a court decision which has become final and binding, to pay maintenance for the said children, and the orphan's pension shall not exceed the amount of such maintenance.

(5) The children or other dependants of a widowed staff member whose deceased spouse was not employed by one of the Organisations listed in Article 1 shall each be entitled to a pension of twice the allowance for a dependent child.

1 Amended by decision of the Administrative Council CA/D 21/08.
2 Amended by decision of the Administrative Council CA/D 2/15.
3 Amended by decision of the Administrative Council CA/D 10/14.
4 Amended by decision of the Administrative Council CA/D 10/14.

(6) The total amount of the pensions provided for in the above paragraphs shall be divided equally among all beneficiaries.

(7)[1] The expression "dependent children" shall mean children who were effectively dependent on the employee or former employee at the time of his death or were born not more than 300 days thereafter.

The expression "other dependants" shall mean persons who, exceptionally, had been granted rights similar to those of dependent children under the Service Regulations for permanent and other employees of the Office before the death of the employee or former employee.

Article 26[2]
Cessation of entitlement

Entitlement to a pension under Article 25 shall cease at the end of the month in which the child or other dependant ceases to qualify for the dependants' allowance under Articles 69 and 70 of the Service Regulations for permanent and other employees of the Office.

Article 27[3]
Beneficiaries of more than one category

(1) Where an employee leaves a surviving spouse and also children of a previous marriage or other persons entitled under him, the total pension, calculated as for a surviving spouse having all these persons dependent on him, shall be apportioned among the various persons concerned in proportion to the pensions which would have been payable to each category if treated separately.

(2) Where there are children born of different parents, the total pension, calculated as though all the children were of the same parentage, shall be apportioned among the various persons concerned in proportion to the pensions which would have been payable to each category if treated separately.

(3) For the purpose of calculating these apportionments, all children recognised as dependants of the deceased employee shall be included in the category of children of the marriage to the employee.

(4) In the case referred to in paragraph 2 above, persons recognised as dependants, other than children, shall be included in the same group as the children to whom they are assimilated for the purpose of the apportionment.

1 Modified by decision of the Administrative Council CA/D 2/18.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 Amended by decision of the Administrative Council CA/D 14/79.

CHAPTER VI
FAMILY ALLOWANCES

Article 28
Conditions

(1)[1,2] The family allowances comprising household allowance, dependant's allowances, young child allowance and education allowance granted under the Service Regulations for permanent and other employees of the Office shall be paid:

(i) to the recipient of a retirement pension;
(ii) to the recipient of a survivor's pension.

The household allowance shall be calculated by reference to the pension of the recipient. However, the dependant's allowances, young child allowance and education allowance shall be paid in full.

(2) The amount of the allowance for a child or other dependant payable to the person entitled to a survivor's pension shall be twice the normal amount.

(3)[3] If the recipient of a retirement or survivor's pension receives other family benefits in respect of the same children, the amount of the latter benefits shall be deducted from the allowances provided for in this Article.

(4) Entitlement to the allowances provided for in this Article shall cease at the end of the month in which the child or other dependant ceases to satisfy the conditions for entitlement to those allowances under the Service Regulations and rules applicable to employees of the Office.

Article 29[4]
Ceiling of benefits payable to surviving spouses and orphans

The total amount payable in respect of survivor's, orphan's and dependant's pensions and of family allowances shall not exceed the maximum of the retirement pension referred to in Article 10, paragraph 2, together with the family allowances to which the deceased employee was entitled.

The amounts payable in respect of survivor's, orphan's and dependant's pensions shall, where applicable, be reduced in proportion to the share of each beneficiary.

1 Amended by decision of the Administrative Council CA/D 4/21.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 Amended by decision of the Administrative Council CA/D 30/07.
4 Amended by decision of the Administrative Council CA/D 14/79.

CHAPTER VII
PROVISIONAL PENSIONS

Article 30
Conditions of entitlement

(1)[1] Where an employee or former employee in receipt of a retirement pension has been missing for more than one year in circumstances justifying a presumption of death, the spouse or persons recognised as dependants may provisionally be awarded a survivor's pension, or orphan's pension, as appropriate.

(2) Paragraph 1 shall apply to persons recognised as dependants of a widowed spouse in receipt of a survivor's pension, who has been missing for more than one year.

(3) Provisional pensions under paragraphs 1 and 2 shall be converted into definitive pensions when the death of the employee or spouse has been established officially or when that person has been declared missing by a final court decision.

CHAPTER VIII
DETERMINATION OF THE AMOUNTS OF BENEFITS

Section 1
Assessment of entitlement

Article 31
Organisation responsible for the assessment

(1) The assessment of entitlement to the benefits payable under these Regulations shall be made by the Organisation in which the employee was serving at the time when his active employment ended, with the assistance of a joint administrative unit for the Organisations listed in Article 1, paragraph 1, responsible for such part of the work as can be centralised.

(2) A detailed statement of the assessment shall be communicated to the employee or the persons entitled under him at the same time as the decision awarding the pension.

1 Amended by decision of the Administrative Council CA/D 30/07.

Article 32[1]
No double entitlement

Without prejudice to Articles 4 and 5, the following may not be paid concurrently out of the budgets of one or more of the Organisations listed in Article 1, paragraph 2:

(i) retirement pensions under Article 10 and Article 13;

(ii) a retirement pension under Article 10 or Article 13 and a non-flat-rate allowance for loss of employment.

Article 33[2]
Basis of calculation

(1) Pensions provided for in these Regulations shall be calculated by reference to the salary defined in Article 3 and to the scales applicable to the country of the employee's last posting.

(2) However, if the employee settles subsequently

(i) in the country of which he is a national, or
(ii) in the country of which his spouse is a national, or
(iii) in a country where he has served at least five years in one of the Organisations listed in Article 1, paragraph 1,

he may opt for the scale applicable to that country.

This option shall apply to only one of the countries referred to in this paragraph, and shall be irrevocable except where paragraph 3 below is applicable.

(3) On the death of his spouse a former employee who settles in the country of which he is a national, or of which his deceased spouse was a national, may opt for the scale applicable in that country.

The same option shall be open to the surviving spouse of a former employee and to orphans who have lost both parents.

These options shall be irrevocable.

(4) Where a country opted for under the provisions of paragraphs 2 and 3 above is not or has not been a Member State of one of the Organisations listed in Article 1, paragraph 1, the reference scale shall be that applicable in the host country of the headquarters of the Organisation responsible for payment of benefits.

(5) The scales referred to in this Article shall be those in force on the first day of the month following that in which the employee left the Organisation.

1 Amended by decision of the Administrative Council CA/D 2/15.
2 Amended by decision of the Administrative Council CA/D 14/79.

(6) Paragraph 2 above shall not apply to the benefits under Article 11. However, an employee who settles in his country of origin may have the severance grant provided for in Article 11 (ii) calculated in accordance with the scale for that country, subject to paragraph 4 above.

Article 34
Re-assessment - Withdrawal

(1) Pensions may be re-assessed at any time in the event of error or omission of any kind.

(2) They shall be liable to modification or withdrawal if their award was contrary to the provisions of these Regulations.

Article 35[1]
Forfeiture of rights

Requirement of evidence

(1) Persons eligible for benefits under this pension scheme shall furnish such supporting evidence as may be required by the Organisation and inform it of any facts which may affect their entitlement to benefits.

Should they fail to comply with these obligations, they may be deprived of the right to benefits under this Scheme; save in exceptional circumstances, they shall refund any sums received to which they were not entitled.

(2) Where the surviving spouse, orphans or other dependants of a deceased employee fail to apply for their pension within one year from the date of his death, the benefits under these Regulations shall not be payable until the first day of the month following that in which they make their application.

(3) Where the former spouse referred to in Article 22 fails to apply for his pension within one year from the date of the death of the employee, his rights shall be wholly forfeited.

Section 2
Adjustment of benefits

Article 36[2]

Should the Council of the Organisation responsible for the payment of benefits decide on an adjustment of salaries in relation to the cost of living, it shall at the same time grant an identical adjustment of pensions currently being paid and of pensions whose payment is deferred.

1 Amended by decision of the Administrative Council CA/D 14/79.
2 Adopted by decision of the Administrative Council CA/D 16/79; see "Implementing Rules"

Should salary adjustments be made in relation to the standard of living, the Council shall consider whether an appropriate adjustment of pensions should be made.

Section 3
Payment of benefits

Article 37
Method of calculation

(1) Benefits under these Regulations shall be paid monthly in arrears.

(2) Benefits shall be paid by the Organisation referred to in Article 31.

(3) Benefits shall be paid in the currency used in their calculation in accordance with Article 33.

Article 38
Sums owed to the Organisations

Any sum owed by an employee to any of the Organisations listed in Article 1 on the date when a benefit is payable under these Regulations shall be deducted from the amount of his benefits or from the benefits payable to those entitled under him. Such deductions may be spread over a period.

Article 39
Right of subrogation

Where employee's disablement or death is attributable to a third party, the award of the benefits provided for in these Regulations shall in principle be made subject to the beneficiary's assigning to the Office his claims against such third party, up to the amount of such benefits.

However, the Office may waive its right to take action pursuant to such subrogation against the third party concerned where special circumstances justify such a waiver.

CHAPTER IX
FINANCING OF THE PENSION SCHEME

Article 40
Charge on budgets

(1) Benefits paid under this pension scheme shall be charged to the budgets of the Organisation responsible for the assessment of these benefits pursuant to Article 31.

(2) The Member States of the Organisation jointly guarantee the payment of these benefits.

(3) In the event of a merger, reconstitution or other transformation or in the event of dissolution of the Organisation, the Council or any ad hoc body set up in one of the afore-mentioned cases shall take the necessary measures to ensure uninterrupted payment of pension scheme benefits until the cessation of entitlement of the last beneficiary.

(4) Should a Member or ex-Member State of the Organisation fail to comply with its obligations under this Article, the other States shall meet the cost thereof in proportion to their contribution to the budget of the Organisation as fixed annually from and after the said State's default.

Article 41
Employees' contributions - Costing the scheme

(1)[1] The employees' contribution to this pension scheme shall be 10.7% of their salary and shall be deducted monthly.

(2) Contributions properly deducted shall not be recoverable. Contributions wrongly deducted shall confer no rights to pension benefits; they shall be refunded without interest at the request of the employee concerned or of those entitled under him.

(3)[2] Should the Councils of the Co-ordinated Organisations listed in Article 1, paragraph 1, deem it necessary to have an evaluation of the cost of the pension scheme made by one or more actuaries and should this show that the employee's contribution referred to in paragraph 1 above does not correspond to one third of the contribution necessary to finance the benefits payable under these Regulations, the said Councils shall decide what changes, if any, are to be made in the rates of contribution.

1 Amended by decision of the Administrative Council CA/D 12/23.
2 Amended by decision of the Administrative Council CA/D 16/93.

CHAPTER X
PROVISIONS RELATING TO ADJUSTMENT OF PENSIONS

Article 42[1]
Pensions which are subject to national tax legislation

(1) The recipient of a pension under these Regulations shall be entitled to the adjustment applying to the Member State of the Organisation in which the pension and adjustment relating thereto are chargeable to income tax under the tax legislation in force in that State.

(2) The adjustment shall equal 50% of the amount by which the recipient's pension would theoretically need to be increased, were the balance remaining after deduction of the amount of national income tax or taxes on the total to correspond to the amount of the pension calculated in accordance with these Regulations.

For such purpose, the Co-ordinated Organisations' tables of equivalence shall be used. The said tables shall determine the rights of the recipients.

(3) In calculating the theoretical amount of income tax or taxes referred to in paragraph 2 of this Article, account shall be taken only of the provisions of tax legislation and regulations affecting the basis of liability and the amount of income tax or taxes for all pensioner-taxpayers in the State concerned.

Pensioners without spouse or dependants shall be deemed to be in the position of a pensioner without entitlement to any tax relief or allowances for family responsibilities, all other recipients being deemed to be pensioners enjoying the tax relief and allowances of a person who is married without children.

No account shall be taken of:

- individual factors related to the personal circumstances or private means of a particular pensioner,
- income other than that arising under these Regulations,
- the income of the spouse or dependants of the pensioner.

On the other hand, account shall, in particular, be taken of circumstances arising in the course of the year as a result of:

- a change in civil status or settlement in another place of residence with a different taxation system,
- commencement or cessation of payment of the pension.

(4) The recipient of an adjustment as specified in this Article shall be required to inform the Office of his full address and of any subsequent change therein.

Such recipient shall produce evidence of his pension and the adjustment relating to it having been declared or taxed; should he fail to comply with

1 Amended by decision of the Administrative Council CA/D 11/14.

this obligation, he shall lose the right to this adjustment and shall refund any amounts unduly received in this respect.

(5) The other procedures for calculating the adjustment, and in particular those necessitated by the special features of certain national tax laws, and the procedure for payment of the adjustment shall be laid down in the implementing rules established in accordance with the tax legislation of the Member States.

Notwithstanding Article 52, the implementing rules referred to in this paragraph shall require approval by the Councils of the Organisations listed in Article 1, paragraph 2.

CHAPTER XI
TRANSITIONAL PROVISIONS

Article 43
Field of application

Articles 44, 45 and 46 shall apply to employees who enter the service of the Office at the proposal of a national administration and who have completed at least five years' service with a government department, a national organisation, an international organisation not listed in Article 1, paragraph 2, or a firm.

Article 44
Retirement benefits

(1) An employee referred to in Article 43 shall, upon request, be entitled to a retirement pension if he has completed at least five years of effective service at the Office, or if it has not been possible to reinstate him during a period of reserve status, or in the event of termination of service in the interests of the European Patent Organisation.

(2) An employee to whom paragraph 1 is applicable may ask to receive the amounts referred to in Article 11 instead of retirement pension.

Article 45
Invalidity pension

(1) For the purposes of Chapter III of these Regulations the number of years of reckonable service for an employee referred to in Article 43 shall be increased, in accordance with the method of calculation laid down in Article 12, paragraph 1, by the period of previous service completed during which he was covered by a pension scheme.

(2) Where the previous scheme does not permit transfer in accordance with Article 12 of these Regulations, or where the employee has not availed himself of the option to make such a transfer, the amount of the benefits under the previous pension scheme shall be deducted from the amount of

the benefits resulting from paragraph 1 above as from the date of payment of the benefits under the previous pension scheme.

(3) The credit granted under paragraph 1 shall be allocated to the employee's years of service with the Office.

Article 46
Enhancement of benefits

(1) An employee referred to in Article 43 whose previous pension scheme does not permit transfers under Article 12, paragraph 1, or who has not availed himself of the option to make such a transfer shall be entitled to an addition based on:

(i) the difference between the rate of salary applicable for the grade and step reached at the date of departure or death and the rate of salary current for his starting grade and step in the Office at that date, and
(ii) the number of years of service that would have been credited under Article 12, paragraph 1, if a transfer payment had been made.

The addition may be in the form of a pension or a lump sum payment. A pension will be paid where the employee or his dependants receives a pension for his service in the Office except where that would prejudice his pension rights from former employment. In other cases a severance grant will be paid.

(2) The increase in pension shall be 2% of the difference in salaries established under paragraph 1 multiplied by the number of years so determined.

(3) The severance grant will be calculated on the basis of 1 1/2 the times the difference in salaries established under paragraph 1 multiplied by the number of years so established.

Article 47
Immediate entitlement

Articles 2 and 18, paragraph 3, shall not apply to employees who, prior to recruitment by the Office, were employed in a national administration or an international organisation during a period of at least five years.

Article 48
Validation

If an employee of the Office who was previously employed in one of the Organisations listed in Article 1, paragraph 2, wishes to make use of the possibilities of validation available under the transitional provisions of the pension scheme of his former organisation, such validation shall be effected under the conditions laid down by the relevant provisions in the said organisation.

Article 49
Period of application

The transitional provisions shall apply to employees who took up duties with the Office during a period expiring eight years after the entry into force of the Convention.

Article 50
Deferred application

(1) For as long as the European Patent Organisation is not a Co-ordinated Organisation, the following provisions of these Regulations shall not apply:

- Article 2, last sentence,
- Article 11, sub-paragraph (iii), last sentence,
- Article 12, paragraph 3,
- Article 48,
- Article 51.

(2) For as long as the European Patent Organisation is not a Co-ordinated Organisation, the provisions of these Regulations shall apply subject to the following:

(a) by way of derogation from Article 1, paragraph 3, the term "employee" shall only refer to permanent employees of the Office;

(b) by way of derogation from Article 1, paragraph 3, the term "Organisation" shall refer only to the European Patent Organisation or the Office, as the case may be, in the following provisions:

- Article 1, paragraph 3,
- Article 4,
- Article 5,
- Article 6, paragraph 1 (i),
- Article 7,
- Article 25, paragraph 4,
- Article 32,
- Article 33, paragraph 1 (iii) and paragraph 4,
- Article 38,
- Article 40;

(c)[1] the reference to the Council of an Organisation listed in Article 1 shall refer only to the Administrative Council of the European Patent Organisation in the following provisions:

- Article 36,
- Article 40, paragraph 3,
- Article 41, paragraph 3,
- Article 42, paragraph 5;

1 Amended by decision of the Administrative Council CA/D 14/08 and CA/95/14 Add. 1 Rev. 1 e

(d) Article 12, paragraphs 1 and 2, and Article 43 shall also apply to the employees of the Organisations referred to in Article 1, paragraph 2;
(e) by way of derogation from Article 31, paragraph 1, and Article 37, paragraph 2, the assessment and payment of benefits payable under these Regulations shall be made by the Office.

CHAPTER XII
FINAL PROVISIONS

Article 51
Co-ordination

These Regulations must be applied in a uniform manner by the different Organisations listed in Article 1; to this end, the Secretaries and Directors General of those Organisations and the President of the Office shall consult among themselves in order to carry out the appropriate co-ordination.

Article 52
Implementing Rules [1]

(1) Implementing Rules for giving effect to these Regulations shall be adopted by the Administrative Council acting on a proposal by the President of the Office and after consulting the General Consultative Committee[2].

(2) These Implementing Rules shall be brought to the attention of the staff.

Article 53
Entry into force

These Pension Scheme Regulations shall enter into force on 20 October 1977.

Done at Munich, 20 October 1977

For the Administrative Council

The President

1 The Implementing Rules are reproduced on the following pages.
2 Amended by decision of the Administrative Council CA/D 2/14.

Pension scheme regulations and implementing rules

Implementing rules

IMPLEMENTING RULES TO THE PENSION SCHEME REGULATIONS

entered into force on 4 June 1981 and applicable with effect from 20 October 1977 (CA/D 6/81)

Rule 1
Definition

Save as otherwise provided in these Implementing Rules, the Articles hereinafter referred to are those of the Pension Scheme Regulations of the European Patent Office.

Rule 1/1
Non-permanent employees

Each Organisation shall precisely define what categories of personnel are referred to in paragraph 3 of Article 1 of the Regulations, that is to say, what categories of personnel do not rank as permanent employees elegible for benefits under the Pension Scheme.

Rule 2/1
Medical examination

Letters of appointment shall specify, where appropriate, that the period of deferred entitlement prescribed in Article 2 shall apply to the person concerned in the light of the results of the medical examination conducted prior to appointment.

If the employee concerned wishes to know the nature of the illness or disablement which justified the application of a deferment period, he can obtain the information from the Medical Consultant of the Organisation.

Rule 2/2
Maximum period of deferred entitlement

The five-year period specified in Article 2 shall be a maximum only.

Rule 2/3[1]
Definition of entitlement during the deferment period

(i) If the said employee leaves the Organisation during the deferment period, the severance grant shall be paid to him and the years of service completed during the deferment period shall be taken into account.

(ii) In the event of death, resulting from a cause which justified the deferment period in course, the employee or the persons entitled under him shall be entitled only to the refund of the amounts stated in Article 11, sub-paragraphs (i) and (iii).

1 Amended by decision of the Administrative Council CA/D 2/15.

Rule 4.1/1
Service counting for entitlement[1]

Service counting for entitlement shall consist of the following:

(i) any period or periods of service actually completed on behalf of a Co-ordinated Organisation by an employee before the Service Regulations or the Provident Scheme came into effect; such service must have been completed under an appointment issued by the Organisation or by the provisional Committee or Secretariat from which the Organisation emanated;

(ii) any periods of sick leave or incapacity in respect of which benefits have been paid; the person concerned shall be required to have paid his personal contributions to the pension scheme as calculated on the amounts so received, thus constituting such periods of reckonable service, without any reductions;

(iii)[2] any periods of sick leave or temporary incapacity in respect of which benefits have been paid; the person concerned shall be required to have paid his personal contributions to the Pension Scheme as calculated on the amounts so received, thus constituting such periods of reckonable service, without any reductions;

(iv) any periods of unpaid leave of not more than two months' duration, if during such periods the employee paid his personal contributions to the Pension Scheme and if such periods are not taken into account by a new employer for the purposes of a pension scheme;

(v) any period for which indemnity for loss of employment or assignment to reserve status has been granted, if the employee concerned has paid his personal contributions to the Pension or Provident Scheme for such period, and inasmuch as such period does not extend beyond the age limit for retirement laid down in the Service Regulations, and is not taken into account by a new employer for the purposes of a pension scheme;

(vi)[3] any period of secondment referred to in Article 45 of the Service Regulations for permanent and other employees of the Office;

(vii)[4] any period of military service referred to in Article 43 of the Service Regulations for permanent and other employees of the Office, if the employee paid or gave an undertaking to pay their personal contributions to the Pension Scheme within six months of the end of such a period. In the event of an undertaking, any outstanding contributions shall be deducted from the benefits owing to those entitled under them.

(viii)[5] any period of parental leave referred to in Article 44a of the Service Regulations for permanent and other employees of the Office, if the employee has

1 Amended by decision of the Administrative Council CA/D 8/22.
2 Amended by decision of the Administrative Council CA/D 2/15.
3 Modified by decision of the Administrative Council CA/D 2/18.
4 Modified by decision of the Administrative Council CA/D 2/18.
5 Modified by decision of the Administrative Council CA/D 2/18.

paid their employee contributions to the Pension Scheme in respect of the period in question;

(ix)[1] any period of family leave referred to in Article 44b of the Service Regulations for permanent and other employees of the Office, if the employee has paid their employee contributions to the Pension Scheme in respect of the period in question.

Rule 4.1/2
Service completed in another capacity before appointment as a permanent employee

Periods of service referred to in Article 4, paragraph 1 (ii), may be taken into account in accordance with Article 5, paragraph 5, if the following conditions are fulfilled:

i)[2] Such periods must have been prior to the appointment of the employee concerned as a permanent employee, that is to say, as a member of the staff to whom the Service Regulations for permanent and other employees apply;

ii)[3] Such service must have been completed in the full-time or at least half-time employment of the Organisation or of more than one Organisation mentioned in Article 1;

Employment within the meaning of this paragraph shall be any non-established service remunerated according to periods of time and not by the job or piece, being service performed on the premises and under the control and to the instructions of the Organisation, according to the hours of work applying to the whole of its staff;

iii) Any such periods completed in the service of the same Organisation, or of more than one Organisation mentioned in Article 1, must not have been broken for more than 12 consecutive months;

iv) In accordance with the provisions of Rule 6/1, periods so to be taken into account must be of a minimum of 30 days; part-time work shall not be taken into account unless it has involved working at least half-time, e.g. two 30-day periods working half-time.

Rule 5.1/1
Service completed in a Co-ordinated Organisation as a permanent employee

(i) Application for any service referred to in Article 5, paragraphs 1 or 2, to be taken into account must be made not later than twelve months after the new appointment, or before the expiry of the option period prescribed in Article 44 or 49 of the Rules of the Organisations referred to in Article 1, paragraph 2.

1 Modified by decision of the Administrative Council CA/D 2/18.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 "Employment" is used in the general sense: this applies in particular to the English text, bearing in mind OECD "employees"

(ii) Where, pursuant to Article 11, the employee has previously received a severance grant in respect of prior service completed in one or more Co-ordinated Organisations, then pursuant to Article 5.1 (i), no partial taking into account of such service shall be allowed; accordingly, the employee concerned shall be required either to refund such severance grant in full or to forego the right to have the corresponding service taken into account.

(iii) Save where Article 44.3 of the Rules of the Organisations listed in Article 1, paragraph 2, applies, the provisions of paragraph (ii) above shall also apply to any amounts which the employee concerned had previously received in respect of a holding in the Provident Fund on leaving an Organisation, within the limit of the cost of crediting past service specified in Article 44.2 of the Rules of the Organisations listed in Article 1, paragraph 2.

(iv) Such refunds must be made as from the expiry of the period referred to in paragraph (i) above, by monthly deductions of not less than 20% of the amount of gross monthly salary (i.e. of the amount given in the Co-ordinated Organisations scale, before deduction of social security and pension scheme contributions), received at the time of beginning such refunds; the said refunds shall be made at a rate of compound interest of 4% per annum.

(v) If, at the date on which any benefit under the Pension Scheme is payable, such refunds have not been completed, the balance still due shall be repaid in its entirety, except where paragraph 3 of Article 44 of the Rules of the Organisations listed in Article 1, paragraph 2 applies, through deduction from the benefits to be paid, possibly by instalments.

(vi) In the event of incapacity, death or termination of the service of the employee concerned, any amount still remaining unpaid shall be set off against the capital sums due to him or to the persons entitled under him, in accordance with the provisions of Rule 38/1 (i), and the balance still due shall be deducted in accordance with the provisions of paragraph (v) above.

(vii) In the event of the termination of his service without any payment of severance grant or pension, the employee concerned may request time not exceeding twenty-four months in which to make up all or part of any refund then still outstanding, subject to the provisions of paragraph (v) above.

Rule 5.1/2
Crediting of service completed before appointment as a permanent employee

(i) Application to be credited with service completed before appointment as a permanent employee must be made within six months after confirmation of the said appointment as a permanent employee or before the expiry of the option period prescribed in Articles 44 and 49 of the Rules of the Organisations listed in Article 1, paragraph 2, in the case of staff whose service began before the commencement of the said option period.

(ii) Persons entitled under a deceased employee may not apply in his place for service to which this Rule applies to be taken into account,

with the exception of persons entitled to avail themselves of the Transitional Arrangements and to whom Articles 43.3 and 44.4 of the Rules of the Organisations listed in Article 1, paragraph 2, apply.

(iii)[1] The amount payable for crediting such rights, which shall be the percentage referred to in Article 41, paragraph 1, of the employee's first monthly salary as a permanent employee multiplied by the number of months in respect of which rights are credited, may be paid by instalments in the form of monthly deductions from emoluments, commencing not later than the end of the relevant period referred to in paragraph (i) above and spread over a period not exceeding the duration of the previous service so credited. Interest at 4% per annum shall be due in respect of any part of the payments which is deferred beyond such period at the request of the employee.

If, at the date on which any benefit under the Pension Scheme is awarded, such payments have not been completed, the balance still due shall be deducted from the benefits to be paid, where necessary by instalments.

(iv) On making his application to credit such service as aforesaid, the employee shall be required to consent to the Organisation having first claim on any capital sums payable in the event of his death or invalidity or of the termination of his service, to the extent of any amounts then still outstanding in respect of crediting such service, provided, in the event of his death, that there remain persons entitled under him to pension benefits.

(v) In the event of the termination of his service, the person concerned may request time not exceeding twelve months in which to make up all or part of any amount then still outstanding, subject to the provisions of paragraphs (iii) and (iv) above.

Rule 5/2
Non-refund of previous pension payments

Example illustrating the application of Article 5, paragraph 2, last sub-paragraph

(i) First pension paid from age 52 to age 54:

(T' x 40/100)

reduced pursuant to Article 8, paragraph 4

(T' = salary used as basis of calculation)

(20 reckonable years of service at 2%)

(ii) Second period of service from age 54 to age 60

(T" x 12/100)

(T" = salary used as basis of calculation at age 60)

1 Amended by decision of the Administrative Council CA/D 3/07. This decision shall enter into force on 1 April 2007. See also footnote to Article 41.

(6 reckonable years of service at 2%)/severance grant

Total Pension

(i) + (ii) = [(T' x 40/100) x 90/100] + (T" x 12/100)

i.e.: 0.4T' - 0.04T' + 0.12T"

(iii) In the final calculation of the total pension, the pension between brackets [(T' x 40/100) x 90/100] has now been reduced pursuant to Article 5, paragraph 2, not Article 8, paragraph 4; the amount as stated in (i) above is reduced to 90% by (2 x 5/100) i.e. 10%.

Rule 5/3
Termination of service at a lower grade

For the implementation of Article 5, paragraph 3, the calculation shall be made as illustrated below:

(i) On previous termination of service (or at highest point in career before downgrading):
10 years' service; grading on departure, G13, step 3[1] = Theoretical final salary:

100 = T' i.e. 10 years' reckonable service.

(ii) On final termination of service:

10 years' served in second period; grading on departure, G11, step 5[2] = Theoretical final salary: 75 = T" the reckonable service in respect of the second period will thus be reduced in the ratio T"/T' = 75/100 i.e. 7.5 reckonable years.

(iii) Total: 10 + 7.5 = 17.5 years' reckonable service.

(iv) Total Pension will be calculated on the basis of T' = 100 x 17.5 reckonable years of service.

Rule 6/1
Fractions of a month

Any fraction of less than thirty days remaining after aggregating periods of service shall be treated as a whole month if it is equal to or more than fifteen days and disregarded if it is less than fifteen days.

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Amended by decision of the Administrative Council CA/D 10/14.

Rule 6.3/1[1]
Part-time service and incapacity

Periods of incapacity or part-time work during which the employee paid reduced contributions to the pension scheme shall be credited in proportion to the contributions paid.

Rule 7/1
Actual service for the purposes of Article 4

For the purposes of Article 4, years served in one or more of the Organisations referred to in Article 1 shall be:

- years served prior to 1 July 1974, which have been credited, and for which the corresponding cost has been paid, under Article 44 of the Rules of the Organisations listed in Article 1, paragraph 2;
- years served after 1 July 1974, in respect of which the employee's contributions to the Pension Scheme have been paid in accordance with Article 5, paragraphs 1 (i) and 5, and Article 41, paragraph 1;
- periods referred to in Article 16, paragraph 2, in accordance with Article 4, paragraph 2.

Rule 8/1
Method of reducing pension - Early pension

(i) A retirement pension paid before age 60 shall be calculated as follows:

- If the pension that would be due at age 60 is lower than the minimum rate prescribed in Article 10, paragraph 3, it shall be brought up to that minimum rate and the reduction provided for in Article 8, paragraph 4, shall then be applied to it.
- If the pension that would be due at age 60 is higher than the aforesaid minimum rate, the reduction shall be applied to it even if the result is lower than that minimum.

(ii) The reductions provided for in Article 8, paragraph 4, shall be applied by reference to whole years, no account being taken of months.

(iii) Family allowances shall be paid and calculated in accordance with the provisions of Rule 28/1 (ii).

(iv) Under the conditions laid down in Article 8 and in this Rule, an early pension may be requested at any time between ages 50 and 60, once the employee's service has terminated.

1 Amended by decision of the Administrative Council CA/D 2/15.

Rule 11/1
Refund of personal contributions

(i) For the purpose of the refund of any personal contributions which at the time of their payment were calculated on a salary expressed in a currency other than that of the last country of service, the amounts involved shall be converted at the rate of exchange applicable in the Organisation at the date of the refund.

However, the person concerned may request that the said personal contributions be refunded in the above-mentioned currency or currencies.

(ii) The refund of the said contributions shall be calculated at the rate of 4 per cent per annum up to the last day of the month preceding the actual payment.

Rule 12.1/1 [1]
Inward transfer of previously acquired rights

(i) Periods of membership of previous pension schemes

(a) Pursuant to Article 12, paragraph 1, of the Regulations, years of reckonable service shall be credited in accordance with these Rules in respect of periods of membership of one or more pension schemes preceding entry into the service of the Office.

(b) Any amounts transferred in respect of periods of membership after entry into the service shall be equivalent to contributions to the Office's pension scheme.

(c) An amount shall be credited under this Article only if it is certified by the pension scheme concerned as being the actuarial equivalent of retirement pension rights or as representing a capital payment in respect of rights to a pension or of social security entitlements (excluding compensation for dismissal or a severance grant) and must be equivalent to the whole of the amounts paid to the person concerned by that pension scheme.

(ii) Transfer date

The transfer date is hereby defined as the value date on which the Office's account is credited.

(iii) Amounts credited

For purposes of calculating the years of reckonable service to be credited pursuant to Article 12, paragraph 1, of the Regulations the amounts specified in paragraph (i) c) above shall be taken into account as calculated and paid under the previous pension scheme, in terms of both capital and interest, if any.They shall be considered as calculated on the transfer date. Any

1 Adopted by decision of the the Administrative Council CA/D 7/04; See also the Agreement between the FRG and the EPO on the implementation of Art. 12 of the Pension Scheme Regulations of the EPO in the annex.

necessary conversion into the currency of the salary paid by the Office on the transfer date shall be effected at the exchange rate in force on that date.

Where such amounts were actually paid to the person concerned before the date of entry into the service, for purposes of calculating the years of reckonable service they shall be increased by compound interest for each full month from the date of payment to the person concerned up to the transfer date. The interest rate to be applied shall be the rate taken into account for the actuarial studies. Where that rate is expressed by reference to a price index, the value of that price index on the first working day of each month shall be the reference index for the month in question.

(iv) Calculation of reckonable years of service

The number of reckonable years of service to be taken into account under Article 12, paragraph 1, of the Regulations shall be calculated by first dividing the transferred amount by the coefficient corresponding to the age of the person concerned on the transfer date. The figure obtained shall then be divided by 12 x 2% of the employee's monthly basic salary on the transfer date to obtain the number of reckonable years of service credited. The above-mentioned rate of 2% shall be the accumulation rate defined in Article 10 of the Regulations.

(v) Maximum reckonable years of service

Taking such reckonable years of service into account must not have the effect of bringing the total pension up to more than the maximum rates prescribed in Article 10 of the Regulations.

(vi) Time limit for application

Application for the amounts referred to in paragraph (iii) above to be credited to the Office must be made in writing

(a) within six months from the date of entry into the service in the case of employees exempted from the probationary period or no later than six months after notification of confirmation of appointment after the probationary period. The actual transfer cannot, however, be made until appointment has been confirmed.
(b) as a transitional measure, within a period of six months from the date on which the possibility of such a transfer was made available to permanent employees by the pension scheme concerned.
The application for crediting may be revoked by the person concerned at any time within the time limits prescribed in paragraph (vii) below, but before the payment provided for in paragraph (iii) has been made.

(vii) Time limits for payment

Payment of the amounts referred to in paragraph (iii) above must be made:

- within three months after the expiry of the time limit prescribed in paragraph (vi) above, if the person concerned had actually received such an amount from the pension scheme concerned.

- on payment of such amounts by the pension scheme concerned in other cases.

Payment to the Office shall be made in the currency - or its equivalent at the exchange rate in force on the date of actual payment to the Office - in which the amounts referred to in paragraph (iii) actually have been, or will be, paid by the previous pension scheme.

(viii) Transfer to a subsequent pension scheme

Pursuant to Articles 11 (iii) and 12, paragraph 2 of the Regulations the amounts paid to the Office under this Article and subsequently refunded, wholly or in part, to an employee who has not completed at least 10 years' actual service within the meaning of Articles 4 and 7 of the Regulations, shall be increased from the time of payment to the Office by compound interest at 4% per annum payable by the organisation responsible for paying the severance grant.

Rule 12.2/1
Transfer of pension rights to an outside scheme

(i) Time limit for application

(a) Application for transfer of pension rights under Article 12, paragraph 2, of the Regulations must be made by the staff member to the Organisation in which his service has terminated within six months after his definitive appointment by the new government department, organisation or firm referred to in Article 12, paragraph 2, of the Regulations.

(b) If the Organisation is unable to conclude with the new administration, organisation or firm referred to in Article 12, paragraph 2, of the Regulations, an agreement for such transfer which it considers satisfactory, it shall confine itself to making immediate payment of the amounts referred to in Article 11 of the Regulations, or to immediate or deferred payment or a retirement pension.

(ii) Conditions governing transfer

The amounts referred to in Article 12, paragraph 2, of the Regulations may be transferred only to the statutory or contractual pension scheme of the government department, organisation or firm referred to in Article 12, paragraph 2, of the Regulations.

(iii) Calculation of amounts to be transferred

The actuarial equivalent of the retirement pension rights referred to in Article 12, paragraph 2, of the Regulations shall be calculated on the basis of the Table annexed hereto, the annual pension acquired in the Organisation being multiplied by the coefficient corresponding to the age and sex of the person concerned.[1]

1 The coefficients reproduced in the Annex are applicable to men and women.

(iv) The age coefficients referred to in Rule 12.1/1, paragraph (iv), first sentence, and paragraph (iii) above shall be established by the President of the Office on the basis of an actuarial study.

Annex to Rule 12.2/1 (iii)[1]

Age[1]	Coefficient	Age	Coefficient
32	13,943	49	15,333
33	13,952	50	15,504
34	13,974	51	15,701
35	14,010	52	15,925
36	14,058	53	16,178
37	14,115	54	16,462
38	14,183	55	16,776
39	14,260	56	17,117
40	14,341	57	17,487
41	14,427	58	17,886
42	14,517	59	18,315
43	14,611	60	18,808
44	14,709	61	18,582
45	14,813	62	18,149
46	14,926	63	17,707
47	15,048	64	17,257
48	15,182	65	16,799

1 As the population of the Pension Scheme is a closed group, only the coefficients for the ages that are still relevant are published

1 Modified by decision of the President, see Circular No. 390.

Rule 19/1
Employee dying during leave on personal grounds

(i) When an employee dies during a period of leave in respect of which the personal contribution to the Pension Scheme was not payable, the surviving spouse shall be entitled to the survivor's pension under Article 19, paragraph 1 (ii), the minimum and maximum amounts of such pension being in accordance with paragraphs 3 and 4 of the same Article.

In addition, any orphans shall be entitled to the benefits specified in Articles 25 and 28.

(ii) However, where the deceased employee, at the time of taking unpaid leave, had not completed a sufficient number of years' service to entitle him to a retirement pension, the amounts provided for in Article 11 shall be paid to his estate; such amounts shall be calculated on the basis of rights acquired and salary at the date of going on leave, without any subsequent adjustment or interest.

Rule 22/1 [1]
Rights of a former spouse (divorced spouse)

The ceiling of the survivor's pension, as provided for in Article 22 (1) of the Regulations, shall be subject to the same adjustments as those provided for in Article 36 of the said Regulations.

Rule 25.5/1 [2/3]
Pension of an orphan dependent on a widowed staff member

(i) The orphan's pension mentioned in this Article (children or other dependants of a staff member who is the widower, or widow, of a spouse not a staff member of a Co-ordinated Organisation) shall be due only if the staff member became widowed while in service. Nevertheless, it shall be due to a widower, or a widow, newly recruited if the above-mentioned pension was paid to him (or her) in a previous employment in one of the Co-ordinated Organisations [4].

(ii) If the staff member remarries or leaves the Co-ordinated Organisations, the orphan's pension shall cease to be paid.

(iii) Since it is the situation at the time of death of the spouse which must be taken into consideration, the following are not entitled to the orphan's pensions:

1 Adopted by decision of the Administrative Council CA/D 3/83 with effect from 1.6.1983.
2 Rule 25.4/1 revised by decision of the Administrative Council CA/D 3/83 with effect from 1.6.1983.
3 Amended by decision of the Administrative Council CA/D 21/08.
4 The holders of such benefit prior to 1st November 1980 shall continue to receive it until the entitlement ceases.

- children born or adopted after the death of the spouse (except for children born not more than 300 days thereafter - Art. 25(6));
- the "other dependants" qualifying as such after the death of the spouse[1].

Rule 27.1/1[2]
Definition of the total pension for apportionment

(i) The total pension referred to in Article 27(1) shall be calculated as if all the beneficiaries of the deceased staff member formed part of a single group.

(ii) This total pension shall comprise:

- a survivor's pension as would be payable to a surviving spouse of the deceased staff member in accordance with Article 19 of the Regulations only;
- orphan's pensions calculated as if all orphans and other dependants of the deceased staff member belonged to the group entitled to the survivor's pension mentioned above. In accordance with the first sub-paragraph of Article 25(2), only one minimum orphan's pension (50 per cent of C1/3[3]) shall be taken into account in this calculation;
- family allowances, also calculated as if such children and other dependants all belonged to the group of the beneficiary of survivor's pension mentioned above. The ceiling for such allowances shall be laid down in Article 29, before apportionment of the total pension.

Rule 27.1/2[4]
Apportionment of the total pension

(i) The total pension so calculated shall be apportioned among:

- where appropriate, the spouse and former spouse;
- orphans and other dependants

in proportion to the amounts which would have been payable directly to each group of beneficiaries considered separately (after application of Articles 20 and 22 of the Regulations).

(ii) Within a group consisting of a surviving spouse or former spouse and orphans and other dependants, the share going to that group shall be apportioned, for the purpose of calculating the individual entitlement of each member as mentioned above, in proportion to the survivor's pension and the family allowances on the one hand, and the orphan's pension on the other, which determined the share payable to that group.

(iii) If the amounts so apportioned exceed the pensions and the family allowances to which the beneficiairies would have been entitled if they had been considered separately, any such excess amounts shall not be payable.

1 The entitlements which might have been granted prior to 1st April 1982 shall be maintained.
2 Adopted by decision of the Administrative Council CA/D 3/83 with effect from 01.06.1983.
3 Amended by decision of the Administrative Council CA/D 14/01.
4 Adopted by decision of the Administrative Council CA/D 3/83 with effect from 01.06.1983.

(iv) The minimum amounts laid down for survivors' and orphans' pensions and for household allowances shall no longer apply to the amounts actually payable.

Rule 28/1[1]
Method of calculating family allowances

(i) Household allowance

The household allowance to which the recipient of pension is entitled shall be calculated on the basis of his pension, but shall not be less than the minimum laid down in the scales in force in the Organisations listed in Article 1, save where the allowance is reduced on the basis of the income of the spouse.

(ii) Early pension

The household allowance to which the recipient of an early pension is entitled shall be calculated on the basis of the reduced pension, subject to the minimum prescribed by the Service Regulations and Rules; the other family allowances of fixed amount shall be granted without any reduction.

Rule 28/2[2]
Education allowance

(i) The education allowance shall be granted for children dependent on a former employee who is in receipt of a retirement pension, or dependent on their spouse, where such spouse is in receipt of a survivor's pension, by applying to the dependent children the same criteria regarding education and expenditure as would apply if the former employee were still serving.

(ii) In the event of the death of a serving employee or employee actually in receipt of a retirement pension, without any survivor's pension being awarded to a spouse, or in the event of the death of the recipient of a survivor's pension, any education allowance which was being paid at the time of the death shall continue to be paid, unchanged in amount, until the end of the current academic year.

Rule 28/3[3]
Young child allowance

(i) The young child allowance shall be granted for children dependent on a former employee who is in receipt of a retirement pension, or dependent on their spouse, where such spouse is in receipt of a survivor's pension, by applying to the dependent children the same criteria as would apply if the former employee were still serving.

(ii) In the event of the death of an employee or former employee actually in receipt of a retirement pension, without any survivor's pension being

1 Amended by decision of the Administrative Council CA/D 30/07.
2 Amended by decision of the Administrative Council CA/D 4/21.
3 Amended by decision of the Administrative Council CA/D 4/21.

awarded to a spouse, or in the event of the death of the recipient of a survivor's pension, any young child allowance which was being paid at the time of the death shall continue to be paid, unchanged in amount, for a further three full calendar months following the death or until the entitlement on which the allowance was based ceases to be recognised, whichever is the earlier.

Rule 29/1
Ceiling for family allowances

(i) Save where Article 10, paragraph 3, applies, the maximum of the retirement pension referred to in Article 29 shall be 70 per cent of the salary defined in Article 10, paragraph 1, as adjusted from time to time in the same way as the minimum salaries referred to in Article 3, paragraph 2; the same adjustments shall be applied to the family allowances referred to in Article 29.

(ii) The ceiling prescribed in Article 29 shall apply only where survivors' and orphans' pensions and family allowances are due simultaneously.

(iii) Any reduction resulting from the application of the aforesaid ceiling shall be calculated on the total of the benefits referred to in paragraph (ii) above; the same shall apply in the case of the existence of a former spouse (divorced spouse) or of orphans of different marriages.

(iv) The reduction shall be applied to the family allowances properly so called and to them alone.

(v) All the calculations referred to in the preceding paragraphs shall be made after deduction of any family allowances received from another source.

Rule 30/1
Forfeiture of rights

Where an employee is missing, the time limits laid down by Article 35, paragraphs 2 and 3, shall commence to run from the date of the Court decision declaring him to be missing, referred to in Article 30, paragraph 3.

Rule 31/1
Pension statement

(i) On the termination of service of an employee, the Organisation shall draw up a statement of his pension rights, in the form annexed[1].

(ii) When an employee enters the service of another Co-ordinated Organisation, he shall hand over the form mentioned in (i) above.

(iii) Benefits under the Pension Scheme shall be assessed by the Organisation in which the employee is serving at the time when his pension rights arise, account being taken of all reckonable years of service which have

1 Form not included in this edition.

been credited including, where applicable, service in more than one of the Co-ordinated Organisations.

Rule 32/1[1]
Double entitlement to retirement pensions

(i) In view of the rules contained in Article 5 and in particular in paragraph 2 of that Article, two retirement pensions may not be paid by two separate Organisations.

(ii) Double entitlement to retirement pensions granted under Article 10 and 13 shall not be allowed.

Where they are due to the same health reasons, the annuities or pensions paid under a scheme distinct from the pension scheme shall be deducted, if they are financed wholly or in part by a Co-ordinated Organisation, from the amount of the retirement pension for health reasons.

(iii) Double entitlement to a retirement pension and any other remuneration paid by an Organisation listed in Article 1 shall, with effect from the notification of these provisions to the employee, be forbidden except in the case of experts' fees and of emoluments of temporary staff provided such emoluments relate to periods of not more than 60 consecutive days in any calendar year.

(iv) Double entitlement to a survivor's pension and to remuneration or a retirement pension paid by an Organisation listed in Article 1 shall be permitted.

(v) Double entitlement to a retirement pension and to an indemnity for loss of employment paid month by month on the basis of the salary being received by the employee at the time of leaving shall be prohibited.

(vi) Simultaneous entitlement to a retirement pension and to an allowance for assignment to reserve status shall be prohibited.

Rule 32/2
Double entitlement with survivor's or orphan's benefits

When they are due to the same cause, the annuities or pensions granted in the event of the death of an employee to the spouse, orphans or dependent persons under a scheme distinct from the Pension Scheme shall be deducted, if they are financed wholly or in part by a Co-ordinated Organisation, from the amount of the relevant pensions due and calculated under the Pension Scheme Regulations.

The preceding provisions shall not relieve employees of their financial obligations to credit past services which derive from Articles 44 and 49 of the Rules of the Organisations listed in Article 1, paragraph 2.

1 Amended by decision of the Administrative Council CA/D 2/15.

Rule 33/1
Alteration due to the exercise of an option

Where, in application of Article 33, benefits under the Pension Scheme are to be calculated on the basis for a scale other than that which was in force at the time when the right to the benefits arose, then the amount of such benefits must, for the purpose of their payment as from the exercise of the option concerned, be recalculated on the basis of the said scale.

Rule 33/2
Transitional arrangements

If persons entitled under an employee who has died before having exercised his right of option choose the Pension Scheme under Articles 43 and 44 of the Rules of the Organisations listed in Article 1, paragraph 2, the scale - other than that of the last country of service - for which they opt pursuant to Article 33 shall be irrevocably applicable. However, where the surviving spouse dies after having exercised the said irrevocable option, the orphans may in their turn exercise a joint option which shall also be irrevocable.

Rule 35/1
Statement by employee or persons entitled under him

Subject to the provisions of Rule 30/1, the recipient of any benefit under the Regulations shall be required to inform the Office immediately of any change in his address, or in his civil status or the composition of his family in so far as such latter change alters the number of persons entitled under him; such statement shall in any case be required to be renewed during the month of December each year. For this purpose, the Organisation shall send a form to the person concerned each year. Mention of this provision shall be made on the statement referred to in Rule 31/1 (i).

Rules 34 and 35/2[1]
Refund of amounts incorrectly received

All amounts incorrectly received shall be refunded pursuant to Articles 34 and 35, in the manner prescribed in the Rules and Regulations applicable to staff serving in the Organisation, without prejudice to the special provisions laid down for implementing Article 42 with regard to taxation.

Rule 35/3
Provision of information to persons eligible for benefits

It is the responsibility of persons entitled under an employee to notify their existence to the Organisation which they consider to be liable for the payment to them of benefits under the Pension Scheme, except for those cases where notification is the responsibility of the Organisation under Article 43.2(iii) and 3(ii) of the Rules of the Organisations listed in Article 1, paragraph 2.

1 See CA/95/14 Add. 1 Rev. 1 e

The Organisation shall then inform the beneficiaries concerned of the benefits which they may claim under the Pension Scheme Regulations.

Rule 36/1 [1]
Cost of living and standard of living

(i) Adjustments of salaries in relation to the cost of living shall apply both to pensions being paid and to deferred pensions the amount of which is to be calculated on the termination of the service of the employee.

(ii) In the case of adjustments other than those relating to the cost of living, deferred pension and those currently being paid shall be recalculated on the basis of the scales applicable to pensions as a result of any decisions that may be taken in relation to pensions.

(iii) Adjustments to pensions currently being paid shall be notified in writing, at least once a year, to the persons entitled to such pensions.

Rule 37/1
Date of payment

In application of Article 37, paragraph 1, pensions and family allowances shall be paid in arrear on the last working day but two of the month to which they relate.

Rule 38/1
Buying back rights - Credit for past service

(i) Any amounts remainng due on the death, recognition of invalidity or termination of service of an employee, in respect of pension rights bought back under Rule 4.1/1 and Article 5 or credited under Articles 44 and 49 of the Rules of the Organisations listed in Article 1, paragraph 2, shall constitute a debt owed to the Organisations by the employee or the persons entitled under him.

Payment to the Organisation of any amounts thus owing shall be made pursuant to the special condition agreed to by the employee at the time of his application to buy back or to be credited with pension rights; this condition shall give the Organisation a preferential right to deduct such amounts from the capital sums due at the time of death or recognition of invalidity, or of termination of service.

1 Decision of the Administrative Council CA/D 16/79:

Article 1

Article 36 of the Pension Scheme Regulations relating to the arrangements for the adjustment of benefits shall be interpreted in all circumstances, and whatever the current salary adjustment procedure, as follows:
Whenever the salaries of staff serving in the Co-ordinated Organisations are adjusted - whatever the basis for adjustment - an identical proportional adjustment will, as of the same date, be applied to both current and deferred pensions, by reference to the grades and steps and salary scales taken into consideration in the calculation of these pensions.

Article 2

This decision shall enter into force on 30 November 1979. It shall apply with effect from 4 April 1978.

(ii) The position in the event of death, invalidity or termination of service of an employee shall be governed by Rules 5.1/1 (vi) and (vii) and 5.1/2 (iii), (iv) and (v); the same provisions shall apply regarding credit for past service under Articles 44 and 49 of the Rules of the Organisations listed in Article 1, paragraph 2.

Rule 41/1[1]
Sickness and incapacity

The employee's contribution to the pension scheme shall be paid in full during sick leave.

During periods of incapacity, this contribution shall be calculated in proportion to the actual salary drawn. At the employee's request, the contribution shall be calculated on the basic salary which he would have received for normal full-time work.

Rule 41/2
Leave on personal grounds

An employee may not pay pension contributions during periods of leave on personal grounds of more than two months' duration, and during such periods the employee shall not acquire any pension rights.

On the other hand, his surviving spouse and orphans shall be entitled to receive benefits under the conditions set out in Rule 19/1.

Rule 42/1[2]
Scope and calculation of the adjustment

(1) Article 42 of the Pension Scheme Regulations shall apply only if the pension and the adjustment relating to it are subject to taxes on income levied in a Member State of the Organisation. The family allowances provided for in Article 28 of the Pension Scheme Regulations shall be assimilated to pensions in determining the tax adjustment in so far as similar allowances are taxable under the national tax legislation of the Member State.

(2) The adjustment referred to in Article 42 of the Pension Scheme Regulations shall be determined on the basis of the legal provisions relating to taxes on income in force in the Member State in which the pensioner is legally subject to such taxation. It shall be established in respect of pensions paid during the tax period as determined in that State.

(3) Where the pension of a person entitled to the adjustment is paid in a currency other than that of the State in which such person is subject to taxes on income, the adjustment shall be determined on the basis of the pension converted into the currency of that State. Such conversion shall be effected at the rate obtaining on the official exchange market.

1 Amended by decision of the Administrative Council CA/D 2/15.
2 Inserted by decision of the Administrative Council CA/D 11/14.

(4) Where the amounts paid during any tax period include arrears of pension relating to any previous period, the adjustment shall be determined or recalculated, as the case may be, with due regard to the tax treatment applicable to such arrears.

Rule 42/2[1]
Establishment of tables of equivalence for payment of the adjustment

(1) Tables of equivalence for payment of the adjustment shall be established for each tax year by the International Service for Remunerations and Pensions, hereinafter referred to as "the Service".

(2) The tax authorities of Member States shall provide the Service, at its request, with the details of legislation and regulations necessary for establishing the tables. The tables shall be checked and confirmed by the tax authorities of the Member State concerned. In the event of disagreement between such authorities and the Service on the content of the tables, the Secretaries-General and the Co-ordinating Committee shall consider the matter on the basis of Article 42 of the Pension Scheme Regulations and of these Implementing Rules.

(3) Provisional tables of equivalence shall be drawn up prior to the commencement of the period to which they refer. They shall show, for rounded pension figures and in respect of each Member State, an amount equivalent to 90% of the monthly adjustment calculated according to the distinctions contained in Article 42(3) of the Pension Scheme Regulations and on the basis of the tax legislation in force at the time of drawing up the tables.

(4) The provisional tables shall be revised whenever amendments to tax legislation involve a change in the amount of the adjustment. The Secretaries-General and the Co-ordinating Committee may however decide by mutual agreement to dispense with the up-dating of tables in cases where the balance of gain or loss is minimal.

(5) As soon as the authorities in Member States have finally adopted the tax legislation applicable to income for the period covered by the provisional tables, these latter shall be replaced by final tables establishing the rights of recipients in accordance with Article 42(2) of the Pension Scheme Regulations. These final tables shall show the amount of the adjustment for the whole of the period which they cover, as well as the monthly amount of the adjustment.

(6) The provisional and final tables of equivalence shall be accompanied by all such information as is necessary for their use. Such information shall include:

- the rules to be observed in cases where changes in the family status, dependants or permanent address ("domicile") of the person entitled

1 Inserted by decision of the Administrative Council CA/D 11/14.

to the adjustment may affect the amount of the adjustment which the person concerned may claim;
- the evidence to be supplied by persons entitled to the adjustment as proof of the declaration for tax purposes, or the taxation, of their pension and the adjustment relating thereto;
- the dates for making such declarations.

Rule 42/3[1]
Method of payment of the adjustment

(1) The adjustment shall be paid at least annually at year-end. If the amounts of pension, arrears of pension and adjustment are paid at the same time, they shall be shown separately on the instrument of payment issued to the recipient.

(2) Any excess or shortfall in the adjustment paid shall be rectified, but in such a way that the amount involved is not taken into account in determining the adjustment in respect of the following tax year.

(3) The adjustments shall be paid in the currency of the State in which the recipient is subjected to taxes on income.

Rule 42/4[2]
Evidence of payment of tax

The tax authorities referred to in Rule 42/2(2) shall inform the Service of the evidence by which, in accordance with Article 42(4) of the Pension Scheme Regulations, recipients of the adjustment may establish that their pension and the relevant adjustment have been declared for tax purposes or have been taxed.

Rule 43/1
Field of application

Employees covered by the provisions of the Agreement on the Integration of the IIB into the EPO, do not fall within the category of employees referred to in Article 43.

Rule 44/1
Entitlement to retirement benefits

(i) Article 44, paragraph 2, shall not apply to an employee who has completed ten or more years' actual service, within the meaning of Article 4, in one or more Organisations, referred to in Article 1, and who is entitled to a retirement pension pursuant to Article 7.

1 Inserted by decision of the Administrative Council CA/D 11/14.
2 Inserted by decision of the Administrative Council CA/D 11/14.

Rule 45.1/1
Procedure where no transfer is made

(i) Where the previous pension scheme did not permit transfer in accordance with Article 12, paragraph 1, or where the employee has not availed himself of the option to make such a transfer, the amount on the basis of which the number of years making up the period of service to be credited pursuant to Article 45, paragraph 1, is to be calculated shall be that of the theoretical transfer defined below in Rule 46.1/1.

(ii) The credit granted under Article 45, paragraph 1, may not result in the total amount of the invalidity pension being brought above the ceilings laid down for that pension in the Regulations.

Rule 45.1/2
Conversion of lump sum

Where the amount of the benefits under the previous pension scheme is paid in the form of a lump sum, that sum shall, for the purpose of making the deduction referred to in Article 45, paragraph 2, be considered to have been transformed into a life annuity, the amount of which shall be calculated on the date on which the lump sum is paid, on the basis of the table in Annex 1, by dividing the lump sum by the coefficient corresponding to the age of the person concerned. From that date, the annuity thus determined shall be subject to adjustments corresponding to those provided for in Article 36.

Rule 46.1/1
Computation of the number of years of service referred to in sub-paragraph (ii)

(i) The number of years of service in question shall be calculated on the basis of the amount of a theoretical transfer calculated in accordance with the conditions laid down in Article 12, paragraph 1. The afore-mentioned amount shall be that which the department or institution responsible for administering the previous pension scheme is able to certify as being the actuarial equivalent or any other fixed value representing retirement pension rights acquired under that scheme before departure. Pension rights acquired by means of voluntary contributions shall be disregarded.

(ii) Where the institution responsible for administering the previous pension scheme is unable to provide such a certified statement, the Office shall determine in each case the number of years of service which it will take into account.

Rule 46.1/2
Severance grant

(i) If the addition to pension prejudices the employee's pension rights from former employment, he or the persons entitled under him shall be required to produce evidence to that effect.

(ii) If such evidence is produced, the recipient or those entitled under him shall be paid the severance grant referred to in Article 46, paragraph 3, and the additions to pension already paid shall be deducted from the amounts then payable.

Rule 46.2/1
Rate of pension

An addition paid in the form of a pension shall constitute an integral part of the pension which it supplements.

Rule 46.2/2
Aggregation of benefits

(i) If the addition to pension referred to in Article 46 results in the amount of the total pension being brought above the ceilings laid down for the pension in the Regulations, the severance grant shall be reduced by an amount equal to the product of that grant, calculated in accordance with Article 46, paragraph 3, and the amount of the afore-mentioned pension which exceeds the afore-mentioned ceiling, divided by the addition paid in the form of a pension.

(ii) The addition referred to in Article 46 may not be accorded concurrently with the credit provided for in Article 45.

(iii) The addition referred to in Article 46 shall be reduced by the amount of any benefits under the previous pension scheme representing an increment in the pension rights acquired, in that scheme, on the date of departure from the last government department, firm or organisation with which the employee worked prior to entering the service of the Office.

By "increment" is meant any addition made to the pension rights acquired on the date of such departure, with the exception of cost-of-living and standard-of-living increases.

Rule 50.1
Deferred application

(i) For as long as the European Patent Organisation is not a Co-ordinated Organisation, the following provisions shall not apply:

- Rule 31/1 (ii) and (iii)
- Rule 32/1 (i) and (iii)
- Rule 44 (i)
- Rule 51/1
- Rule 51/2.

(ii) For as long as the European Patent Organisation is not a Co-ordinated Organisation, the provisions of these Implementing Rules shall not apply insofar as they relate to the transitional arrangements under the Rules of the Organisations listed in Article 1, paragraph 2, as referred to in Rule 51/3.

Rule 50.2
Restricted application

For as long as the European Patent Organisation is not a Co-ordinated Organisation, the provisions of these Implementing Rules shall apply subject to the following:

(a) The term "employee" shall only refer to permanent employees of the Office;

(b) the term "Organisation" or "Organisations" shall refer only to the European Patent Organisation or the Office, as the case may be, in the following provisions:

- Rule 1/1
- Rule 4.1/1(i)
- Rule 4.1/2(ii) and (iii)
- Rule 5.1/2(iv)
- Rule 7/1, first sub-paragraph
- Rule 11/1(i)
- Rule 15/1(i)
- Rule 16/1
- Rule 16/2
- Rule 16/3
- Rule 28/1(i)
- Rule 31/1(i)
- Rule 35/1
- Rule 34/1 and 35/2
- Rule 35/3, first paragraph, first part of sentence, and second paragraph

(c)[1] the term "Co-ordinated Organisation" shall refer only to the European Patent Organisation or the Office, as the case may be, in the following provisions:

- Rule 4.1/1(i)
- Rule 5.1/1(ii)
- Rule 15/1(i)(a), and (iii)
- Rule 25.4/1(i) and (ii)
- Rule 32/1(ii)
- Rule 32/2.

Rule 51/1
Administrative Committee on Pensions

The Standing Committee of Secretaries-General has set up the Administrative Committee on Pensions of the Co-ordinated Organisations (CAPOC) so as to have at its disposal a body which can effectively ensure that the provisions of the Pension Scheme Regulations are uniformly applied (CCG/W(74)43 of 27 December 1974, paragraph 1).

1 Amended by decision of the Administrative Council CA/D 2/15.

Rule 51/2
Forms

The Annex contains a standard form[1] to be used for determining the position regarding each employee's reckonable years of service for pension purposes at a particular date, viz:

- either on leaving the Organisation or on the assessment of a benefit under the Scheme, or
- on changing from one Organisation to another.

The said form recapitulates the provisions to be consulted as being relevant to such events.

As a guide, model forms[1] have also been established for the various types of benefit.

Rule 51/3
Transitional arrangements of the Co-ordinated Organisations

The transitional arrangements under the Rules of the Organisations listed in Article 1, paragraph 2, as set forth in Annex 2, shall form an integral part of these Implementing Rules.

1 Forms not included in this edition.

ANNEX 1

Calculation of the life annuity relating to Rule 45.1/2

Age	Coefficient	Age	Coefficient
20	21,569	45	16,382
21	21,439	46	16,087
22	21,303	47	15,785
23	21,161	48	15,478
24	21,013	49	15,164
25	20,858	50	14,845
26	20,696	51	14,521
27	20,528	52	14,191
28	20,354	53	13,855
29	20,174	54	13,513
30	19,987	55	13,166
31	19,794	56	12,815
32	19,594	57	12,461
33	19,387	58	12,104
34	19,174	59	11,745
35	18,953	60	11,384
36	18,726	61	11,023
37	18,252	62	10,662
38	18,005	63	10,302
39	18,005	64	9,943
40	17,752		
41	17,492		
42	17,225		
43	16,951		
44	16,670		

Example of calculation of the life annuity

- Payment of a lump sum of DEM 100 000 at 50 years
- Life annuity: 100 000 DEM / 14.845 = DEM 6 736

ANNEX 2

Transitional arrangements under the Rules of the Organisations listed in Article 1, paragraph 2

Transitional arrangements applicable to staff whose service began before 1st July 1974

Section 1
Staff whose service did not terminate before 1st January 1973

Article 43
Scope

(1) Permanent staff serving on 1st July 1974, must, within the period referred to in paragraph 4 (i) of this Article, state in writing which one of the options referred to in Articles 44, 45 and 48 they wish to select. Staff failing to make their choice within that period shall be deemed to have chosen the option under Article 44 and to elect to be credited with past service for the periods referred to in paragraph 2 of that same Article.

This choice shall be irrevocable both for the staff member and for persons entitled under him.

(2) (i) Should a staff member who was serving on 1st July 1974 become incapacitated without having made the choice referred to in this Article, his choice will in future be limited to Articles 44 and 48.

(ii) Should a staff member who was serving on 1st July 1974 die without having made the choice referred to in this Article, his spouse or, in the event of the latter's death, his orphans or other dependants, may only make the choices referred to in sub-paragraph (i) above.

(iii) The choice in favour of Article 44 or 48 must, in any event, be made by the staff member, or the persons entitled under him within the period referred to in paragraph 4 (i) of this Article, or, in the event of death of the staff member or his spouse, six months after the date on which the Organisation has notified the new scheme to the persons entitled under them.

In the cases dealt with in this paragraph 2, if the choice is not made within the time limit laid down, the staff member or the persons entitled under him shall be deemed to have made the choice covered by Article 48.

(3) (i) Staff who have left the Organisation between 1st January 1973 and 1st July 1974 may also opt for the Pension Scheme under the terms of Article 44 provided they make an application to this effect within the period referred to in paragraph 4 (i) of this Article.

(ii) Should a staff member to whom this paragraph applies die without having opted for Article 44, the persons entitled under him may exercise such option not later than six months after the date on which they have been notified of the new scheme by the Organisation.

(4) (i) The option period provided for in this Article shall end, in each of the Organisations listed in Article 1.1, one year after final approval of these Rules has been given by the Council of the said Organisations, save in the cases referred to in paragraphs 2 (iii) and 3 (ii) of this Article.

(ii) The options provided for under this Section of the Rules shall take effect on 1st July 1974; however, the option referred to in paragraph 3 above shall take effect on the date of the award of the benefits under the Pension Scheme, but not earlier than 1st January 1973.

Article 44
Pension with credit for past service

(1) A staff member to whom this section of the Rules applies and who has chosen the option provided for by this Article shall be bound by the terms of the Pension Scheme, and be credited with any periods served by him before 1 July 1974 in one or more of the Organisations listed in Article 1.

(2) A staff member credited with past service under paragraph 1 shall surrender his holding in the Provident Fund. However;

(i) for the period prior to the setting-up of the Provident Fund, the staff member shall retain the difference between the amounts contributed by the Organisations plus their yield up to the date when the option referred to in Article 43.4 (ii) takes effect, and the aforesaid amounts plus compound interest at 4% per annum up to the aforesaid date;

(ii) for the period between the setting-up of the Provident Fund and the date when the option referred to in Article 43.4 (ii) takes effect, the staff member shall retain such part of his holdings as exceeds 21% of the salaries paid to him during this period plus compound interest at 4% per annum on the said amount of 21 per cent up to the aforesaid date;

(iii) notwithstanding the provisions of sub-paragraphs (i) and (ii) above, a staff member may not retain that part of his Provident Fund holding which corresponds to any interest bonuses granted in certain Organisations. The cost of crediting past service under this paragraph shall be determined in nominal terms in the currency of the country or countries of service where the salaries used as a basis for the calculation of contributions were actually paid, the necessary conversions into the currency ultimately used for keeping the individual accounts being effected on the basis of exchange rates in use for Provident Fund operations on the date when the option takes effect. In cases where the Provident Fund holding paid over to a staff member when he left is refunded, the cost of crediting past service may be paid directly in the currency (or currencies) in which the contributions were payable. The crediting of

past service in the manner prescribed in this paragraph shall be irrevocable and must include all periods of service covered by this paragraph.

(3) (i) Where a staff member has exercised his right to make withdrawals from his Provident Fund holding and where, in consequence, the amount standing to his credit is less than the amount he would have surrendered under paragraph 2 if he had not made withdrawals, service prior to 1st July 1974, shall only be credited in the proportion these two amounts bear to each other.

(ii) This provision shall not apply where a staff member has, within the period referred to in Article 43.4 (i), undertaken to repay the difference between the two amounts plus compound interest at the rate of 4% per annum as from that date. If the staff member makes only partial repayment, past service shall only be credited in the proportion referred to in the first sub-paragraph above.

(iii) Should a staff member become incapacited or die without having made the choice referred to in this Article, the figure of 70% referred to in Article 14.2 as well as the minimum pensions referred to in Articles 14.4 and 19.3 shall be reduced according to the ratio between:

- the total number of years of service that would have been reckonable - up to the age limit laid down in the Staff Regulations, in the event of invalidity - allowing for the reductions referred to in this paragraph, and
- the total number of years of service that would have been credited if the staff member had entirely repaid the withdrawals made from his Provident Fund holding.

(iv) Repayments provided for in this paragraph must be made within the time limit laid down in the Instructions for the implementation of these Rules.

(4) A staff member may also, within the period referred to in Article 43.4 (i), ask to be credited with service completed before his appointment as a permanent staff member, in accordance with Article 5.5.

(5) A staff member to whom this Article applies and who leaves the Organisation at the age limit laid down in the Staff Regulations after having completed less than the ten years required under Article 7 shall be entitled to opt for an allowance calculated in accordance with Article 11 or for a proportionately reduced pension calculated in accordance with Article 10.

Article 45
Pension without credit for past service

(1) A staff member to whom this section of the Rules applies and who has chosen the option provided for by this Article shall be bound by the terms of the Pension Scheme but shall in derogation of Article 5.1 (ii) irrevocably renounce the right to be credited with service prior to 1st July 1974, in one or more of the Organisations listed in Article 1.1.

(2) If he leaves the Organisation without completing ten years' service subsequent to 1st July 1974, he shall receive a leaving allowance as provided for in Article 11 in respect of his service subsequent to that date.

(3) If he leaves the Organisation after completing ten or more years' service subsequent to 1st July 1974, he shall, subject to the conditions laid down in Chapter 11, be entitled to a retirement pension for his service subsequent to that date. In the calculation of the minimum retirement pension provided under Article 10.3 only the years served after the afore-mentioned date shall be taken into account.

(4) If he becomes incapacitated or dies while serving, the provisions of Chapters III to VI shall be applied as appropriate.

Article 46
Bonus for service after the age of sixty

(1) A staff member to whom this section of the Rules applies, who has chosen one of the options given in Articles 44 and 45, and who has continued to serve beyond the age of sixty, shall, in respect of each year completed after that age, be entitled to an increase in pension corresponding to 5% of the reckonable years of service credited to him at the age of sixty, but

(i) the increase granted in respect of each year served after the age of sixty shall not exceed 2% of the salary defined in Article 10.1, and
(ii) his total pension shall not exceed 70% of the salary so defined.

(2) Within the same limit, pension rights shall continue to accrue as provided for in Article 10.1.

(3) This Article shall, in the case covered by Article 14.1, apply only in respect of actual service after the age of sixty.

Article 47
Compensation for loss of previous pension rights

A staff member to whom this section of the Rules applies may receive compensation by way of reckonable years of service under the conditions and within the limits laid down in the provisions implementing the Rules if he establishes that, by reason of having joined the Pension Scheme of the Organisation, he has been obliged to forfeit all or part of any pension rights that may have accrued to him previously in his country of origin, without being able to obtain the actuarial equivalent of such rights.

Article 48
Provident Fund

(1) A staff member to whom this section of the Rules applies may opt to remain in the Organisation's Provident Fund Scheme instead of receiving the benefits provided for in these Rules, where his contractual situation requires that such an option be given to him.

(2) In derogation of Article 5.1 (ii), he shall thus irrevocably renounce the right to be credited with service prior to 1st July 1974 in one or more of the Organisations listed in Article 1.1.

Section 2
Staff whose service terminated before 1st January 1973

Article 49
Scope

(1) As a transitional measure, the provisions of these Rules shall, if so requested by them, apply to:

(i) former staff members, with not less than ten years' service who left the Organisation at the age of sixty or more, and their widows, incapacited widowers and orphaned children,
(ii) the widows, incapacitated widowers and orphaned children of staff members who died while serving,
(iii) staff members permanently incapacitated while serving, and their widows, incapacitated widowers and orphans,

when the events referred to in (i), (ii) and (iii) occurred before 1st January 1973.

(2) These beneficiaries shall, however, refund to the Organisation responsible for payment of the benefits the Provident Fund holding due to the staff member at the time of his departure, death or recognition as unfit for service. This refund shall include non-reimbursed withdrawals under the conditions laid down in Article 44.3.

This refund shall be limited to the amount of contributions paid by the staff member and by the Organisation, plus compound interest at 4% per annum, such refund shall be abated, where applicable, by an amount calculated by means of the following fraction:

- Numerator: the difference between the age of the staff member on 1st January 1973 and his age at the time of departure, death or recognition as unfit for service;
- Denominator: the difference between 80 and the age of the staff member at the time of departure, death or recognition as unfit for service.

(3) The request referred to in paragraph 1 above must be made within the period referred to in Article 43.4 (i), failing which the right to do so shall lapse. The benefits under this Article shall be granted with effect from 1st January 1973.

(4) Benefits under this Article shall be calculated by reference to the staff member's grading when he left the service before 1st January 1973 but

on the basis of the corresponding scales in force on 1st January 1973, subsequently adjusted in accordance with Article 36.

(5) Staff to whom this Article applies shall not benefit under the provisions of Article 46.

Section 3
Hardship Allowance

Article 50

(1) As an exceptional measure, where a staff member governed by the transitional arrangement is - or the persons claiming under him are - unable to make the refunds required under Article 44 or Article 49, he - or they - may, if the Secretary General considers this justified in the light of his - or their - overall income, be granted a hardship allowance. This allowance shall not exceed the amount of the minimum pension provided for in the Rules in respect of each category of beneficiary. A hardship allowance may also be granted in consideration of the low level of their income to the widowers of staff members who died before 1 January 1979. In this case, any pension granted as the case may be to their children and other dependants shall be reduced to the amount provided for in Article 25.2.

(2) The hardship allowance may only be granted as from the first day of the month following that in which the application is made, and in any event not earlier than 1st July 1974; it may not, however, be granted to a former staff member before he has reached the age of sixty, unless he is incapacitated.

(3) Detailed application of this Article will be governed by the Instructions referred to in Article 52.

Pension scheme regulations and implementing rules

Transfer of pension rights

TRANSFERS FROM THE "VERSORGUNGSANSTALT DES BUNDES UND DER LÄNDER" (VBL) TO THE EPO[1]

As from 01 November 2006 an agreement will enter into force allowing transfers from the Versorgungsanstalt des Bundes und der Länder (VBL) to the EPO.

- Any staff interested in transferring their pension rights previously acquired with the VBL should apply within the six month period starting 1 November 2006 and ending 30 April 2007.
- Staff who have previously applied must reapply using the new application form available on the Intranet
- For staff members newly recruited or still in their probationary period as from 1.11.2006 the time limit for applications shall apply according to the EPO Pension Scheme Regulations (Rule 12.1/1 vi).
- For the application form and additional information about the procedure, see the intranet under Work channel > Human Resources > Personnel > Compensation and Benefits >Transfer of pension rights - VBL.

Please read all the information carefully before filling in the form.

Please note that the agreemtns entering into force as from 01 November 2006 concerns only the Versorgungsanstalt des Bundes und der Länder (VBL). The VBL is an additional pension scheme for people who worked in the public sector in Germany but were not civil servants. It is not the Deutsche Rentenversicherung Bund (formerly BfA). The transitional period from 1 November 2006 to 30 April 2007 concerns only those who were previously insured with the VBL.

Dept. 4.3.3
Compensation and Benefit Systems -Pension Administration

1 Gazette 11/06

Circular No. 78 (10 December 1980)
Inward transfer of pension rights[1]

Circular No. 295 (30 October 2006)
Transfer of pension rights
Information for all EPO staff and pensioners
who have acquired pension rights in the Netherlands[2]

1 Details are contained in the brochure entitled „Information on transferring pension rights" which was issued by Pension Administration in July 2004.
2 See Part 1b.

Pension scheme regulations and implementing rules

Agreement between the Federal Republic of Germany and the European Patent Organisation on the implementation of Article 12 of the Pension Scheme Regulations of the European Patent Office

AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE EUROPEAN PATENT ORGANISATION ON THE IMPLEMENTATION OF ARTICLE 12 OF THE PENSION SCHEME REGULATIONS OF THE EUROPEAN PATENT OFFICE[1]

THE FEDERAL REPUBLIC OF GERMANY

AND

THE EUROPEAN PATENT ORGANISATION,

desiring to implement the basic rules contained in Article 12(1) and (2) of the Pension Scheme Regulations of the European Patent Office in such a way as to establish the legal and technical conditions enabling the rights of permanent employees and contract staff of the European Patent Office in the field of social security pension insurance to be taken into account,

have agreed as follows:

Article 1
Implementation of Article 12(1) of the Pension Scheme Regulations of the European Patent Office

(1) A permanent employee or member of the contract staff of the European Patent Office who has been compulsorily or voluntarily insured with the German social security pension insurance scheme shall be entitled to have transferred to the pension scheme of the European Patent Office the total compulsory and voluntary contributions paid in respect of him to an authority responsible for the social security pension insurance scheme in the Federal Republic of Germany up until the time of his entry into the service of the European Patent Office, taking into account where appropriate any pension adjustment, together with 3.5 per cent interest for each complete year following the contribution payment until the time of the transfer. The transfer shall be effected on application by the person entitled; it may also be applied for by his survivors. Such application is to be made to the European Patent Office within six months from the appointment of the employee on a permanent basis or, in the case of a member of the contract staff, within six months from the date on which he acquires a right to a retirement pension. That period shall not expire earlier than six months after the entry into force of this Agreement. The European Patent Office shall notify the Federal Insurance Office for Salaried Employees, which shall, where appropriate, pass the application on to the competent authority responsible for the pension scheme. An application may not be withdrawn once the applicant has accepted in writing the proposal made by the European Patent Office regarding the extent of the period of service to be credited.

(2) Contributions which have been paid prior to a currency reform date requiring to

1 See Art. 7 of this document (only the original version in German is binding).

be observed in the German social security pension insurance scheme shall be transferred only to the extent of the percentage of their nominal value set out in paragraph 8 of Chapter 1 of the Protocol to Article 7 of this Agreement, together with 3.5 per cent interest for each complete year following payment thereof.

(3) Where the applicant has been granted a benefit in kind or cash benefit from the German social security pension insurance scheme, the equivalent of such benefit in kind or cash benefit, together with 3.5 per cent interest for each complete year following receipt of the benefit, shall, in the event of a transfer, be repaid or set off against the transfer sum.

(4) Upon the transfer being effected, all rights against the German social security pension insurance scheme in respect of all pension periods completed prior to entry into the service of the European Patent Office shall be extinguished.

Article 2
Implementation of Article 12(2) of the Pension Scheme Regulations of the European Patent Office

(1) A permanent employee or member of the contract staff who leaves the service of the European Patent Office shall be entitled to have the actuarial equivalent of his retirement pension rights acquired in the European Patent Office or, where no such rights exist, the amounts provided for in Article 11 of the Pension Scheme Regulations transferred to the Federal Insurance Office for Salaried Employees .The transfer shall be effected only on application by the permanent employee or member of the contract staff. Such application is to be made to the European Patent Office within six months from the day on which he leaves. That period shall not expire earlier than six months after the entry into force of this Agreement. The European Patent Office shall notify the Federal Insurance Office for Salaried Employees thereof. An application may not be withdrawn once the equivalent sum or the amounts provided for in Article 11 of the Pension Scheme Regulations has/have been credited to the Federal Insurance Office for Salaried Employees.

(2) The actuarial equivalent of the pension rights acquired on the basis of the Pension Scheme Regulations shall be calculated by the European Patent Office in accordance with the implementing regulations in force at that time. Where no such rights exist, the amounts provided for in Article 11 of the Pension Scheme Regulations shall be transferred. Where the amount of the actuarial equivalent thus calculated is less than that of the severance grant which could be paid to the permanent employee or member of the contract staff, the higher sum shall be transferred by the European Patent Office.

(3) Upon the transfer being effected, the permanent employee or member of the contract staff shall be deemed to have been insured with the salaried employees' social security pension scheme during the period of his service in the European Patent Office. The incidence of a benefit payment by the German social security pension insurance scheme shall not prevent the implementation of the transfer.

(4) In the event of retransfer, the insurance relationship shall be revived; the sum originally transferred, together with interest at 3.5 per cent on the amount transferred by the European Patent Office for each complete year following the transfer from the pension scheme, shall be taken as the basis of calculation in that respect.

(5) For the purposes of assessing the contributions payable in respect of the period of service in the European Patent Office, the basis of computation to be applied shall be the actual remuneration achieved therein, not exceeding the income ceiling for the assessment of contributions applicable in the circumstances. The amount of such contributions shall be determined in accordance with the rules for the computation of retrospective pension contributions in force at the time of the transfer. The contributions shall be deemed to constitute compulsory contributions paid on the due date. In the event that the amount transferred by the European Patent Office is insufficient to cover the payment of the arrears of contributions corresponding to the actual remuneration up to the income ceiling for the assessment of contributions, the total amount shall be apportioned pro rata in relation to the number of months of service in the European Patent Office completed by the permanent employee or member of the contract staff. The proportion attributed to each month of service shall be deemed to represent a monthly contribution. The amount of any shortfall in the arrears corresponding to the actual remuneration up to the income ceiling for the assessment of contributions may be paid, upon application, by the former permanent employee or member of the contract staff.

(6) Any remaining sums which are not required shall be paid over to the former permanent employee or member of the contract staff of the European Patent Office.

(7) Where voluntary contributions have been paid in respect of the period in relation to which a transfer is effected, the voluntary contributions shall be repaid.

(8) The European Patent Office shall notify the Federal Insurance Office for Salaried Employees of all information required for the purposes of applying paragraphs (1) to (5), and in particular the length of service and the amount of remuneration.

Article 3
Recognition of previous insurance periods

A person shall also be deemed to have been insured prior to his entry into the service of the European Patent Office where that person has been, or is, retrospectively insured with the German social security pension insurance scheme in respect of periods prior to such entry.

Article 4
Obligation to provide clarification and advice

It shall be incumbent on the authorities responsible, under the terms of this Agreement, for the social security pension insurance scheme and on the European Patent Office, in the framework of their competence, to provide general clarification and advice to persons concerned regarding their rights and obligations pursuant to this Agreement. Furthermore, it shall be open to the European Patent Office and the German liaison agency to agree such administrative measures as are necessary and expedient for the implementation of the Agreement. Within the Federal Republic of Germany the common liaison agency for the implementation of this Agreement shall be the Federal Insurance Office for Salaried Employees.

Article 5[1]
Entry into force

This Agreement shall enter into force one month after the day on which the Federal Republic of Germany notifies the European Patent Organisation that the national conditions for entry into force have been fulfilled. The period shall be computed as from the day on which that notification is received.

Article 6
Period of validity / termination

This Agreement is concluded for an unlimited period. It may be terminated at the end of any calendar year upon the giving by either party of three months' notice, without prejudice to the rights laid down by Article 12 (1) and (2) of the Pension Scheme Regulations of the European Patent Office.

Article 7
Protocol

The protocol annexed hereto forms an integral part of this Agreement.

Done at Munich on 8 December 1995 in two originals, both in the German language, the wording of each original being equally binding.

For the Federal Republic of Germany

H. Hillgers

For the European Patent Organisation

Dr. P. Braendli

1 The Agreement entered into force on 21 September 1996.

PROTOCOL TO ARTICLE 7 OF THE AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE EUROPEAN PATENT ORGANISATION ON THE IMPLEMENTATION OF ARTICLE 12 OF THE PENSION SCHEME REGULATIONS OF THE EUROPEAN PATENT OFFICE

On the occasion of today's signing of the Agreement between the Federal Republic of Germany and the European Patent Organisation on the implementation of Article 12 of the Pension Scheme Regulations of the European Patent Office, the authorised representatives have declared that there is agreement on the following:

Chapter 1
Definitions of Terms

In this Agreement the following terms shall respectively have the meanings attached to them:

1. Permanent employee: a permanent employee within the meaning of Article 1 of the Service Regulations for permanent employees of the European Patent Office in conjunction with Article 1 of the Pension Scheme Regulations of the European Patent Office, regardless of his or her nationality.

2. Member of the contract staff: a staff member recruited on the basis of a fixed-term contract within the meaning of Article 1 of the Conditions of employment for contract staff of the European Patent Office, regardless of his or her nationality.

3. Survivor: qualification as a survivor shall be determined in accordance with the national legislation applying in each case. Under German law, survivors and beneficiaries comprise widows, widowers, orphans and spouses divorced prior to 1 January 1977 who have not remarried.

4. Benefit payment by the German social security pension insurance scheme: the payment of benefit by reason of old age, impairment of earning capacity or death.

5. Benefits in kind and cash benefits within the meaning applied by the German social security pension insurance scheme: benefits provided by the authority responsible for the social security pension scheme for the purposes of rehabilitation and pensions, including all grants, endowments and increases.

6. Blameless failure to comply with a time-limit: cases in which a person is prevented, through no fault of his own, from complying with a time-limit (see, for example, § 27(1) SGB X).

7. Interest: interest inclusive of compound interest.

8. Currency reform dates and percentages requiring to be observed within the German social security pension insurance scheme:

21 June 1948 within the territory of the Federal Republic of Germany, excluding the accession area	10 per cent
25 June 1948 within the accession area and West Berlin	10 per cent
20 November 1947 in the Saarland	10 per cent
1 July 1990 in the accession area	50 per cent

9. Entry into the service of the European Patent Office: the date of entry into the service of the European Patent Office shall be the date on which the permanent employee's appointment as a probationer takes effect. In the case of members of the contract staff, the date of their entry into service shall be the date on which they take up their duties.

Chapter II
Transitional provisions

1. Implementation of Article 12(1) of the Pension Scheme Regulations of the European Patent Office.

An employee of the European Patent Office who was appointed as a permanent employee prior to the entry into force of the Agreement or who has acquired a pension or severance grant right as a member of the contract staff shall be entitled, in the circumstances laid down by Article 1, to apply for the transfer of the lump sum surrender value of the contributions paid by him to the German social security pension insurance scheme.

The rules contained in Article 1 of the Agreement shall also apply in relation to permanent employees who have been retired during the period between 20 October 1977 and the entry into force of the Agreement and to members of the contract staff who have been retired during the period between 11 December 1992 and the entry into force of the Agreement.

The survivors of a former permanent employee or member of the contract staff shall also be entitled to apply for these provisions to be applied. In the case of more than one survivor, such application can only be entertained if it is made jointly by all survivors.

In order to avoid loss of rights, the application for transfer must be made to the European Patent Office within six months from the entry into force

of the Agreement; by way of derogation from the foregoing, a member of the contract staff shall be entitled to make his application at any time up until the expiry of the period prescribed in Article 1(1). The foregoing shall not apply in cases of blameless failure to comply with a time-limit. In the event that benefits are already being paid from the German social security pension insurance scheme at the time when the application is made, the transfer of the lump sum surrender value shall have the retroactive effect of cancelling the decision to grant a pension adopted by the authority responsible for the German social security pension scheme and of requiring the repayment to that authority of all benefits received since the commencement of the pension (Chapter I No. 5) including all supplements, grants and increases together with 3.5 per cent interest for every complete year following receipt of the benefits. The foregoing shall also apply, where the application for transfer is made by a survivor, in relation to benefits received from the German social security pension insurance scheme up until the death of the permanent employee or member of the contract staff.

2. Implementation of Article 12(2) of the Pension Scheme Regulations of the European Patent Office.

A permanent employee or member of the contract staff who has left the service of the European Patent Office prior to the entry into force of the Agreement shall be entitled, in accordance with Article 2 of the Agreement, to apply for the transfer to the Federal Insurance Office for Salaried Employees of the actuarial equivalent of the pension rights acquired by him at the European Patent Office or, where no such rights exist, the amounts provided for in Article 11 of the Pension Scheme Regulations.

The provisions of Article 2 of the Agreement shall also apply in relation to permanent employees who have been retired during the period between 20 October 1977 and the entry into force of the Agreement and to members of the contract staff who have been retired during the period between 11 December 1992 and the entry into force of the Agreement.

The survivors of a former permanent employee or member of the contract staff shall also be entitled to apply for these provisions to be applied. In the case of more than one survivor, such application can only be entertained if it is made jointly by all survivors.

In order to avoid loss of rights, the application for transfer must be made to the European Patent Office within six months from the entry into force of the Agreement. The foregoing shall not apply in cases of blameless failure to comply with a time-limit.

The transfer of the actuarial equivalent of the retirement pension rights or the amounts provided for in Article 11 of the Pension Scheme Regulations

shall have the retroactive effect of extinguishing the retirement pension rights and of requiring the repayment to the European Patent Office of all sums received since the commencement of the pension.

Chapter III
Duration of the Agreement [1]

The Agreement between the Federal Republic of Germany and the European Patent Organisation on the implementation of Article 12 of the Pension Scheme Regulations of the European Patent Office shall continue in force, notwithstanding the giving of notice of termination pursuant to Article 7, until the conclusion of a new agreement.

1 Full details of the new provisions - and specifically how they relate to the transfer of German pension rights to the EPO pension scheme - can be gathered from an Office brochure entitled "Informationen zur Übertragung von Versorgungsanwartschaften D —> EPA". In addition to the text of the agreement it also contains information issued by the BfA and a copy of the relevant request forms (obtainable from the Remuneration Department 4.3.1.2).

Reserve Funds for Pensions and Social Security[1]

1 English version revised by decision of the Administrative Council CA/D 12/24 to introduce gender-neutral language. The German and French versions remain unchanged.

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33, paragraph 2(a) and (c) thereof,

Having regard to the Financial Regulations of the European Patent Organisation, and in particular Article 1, paragraph 2 thereof,

Having regard to Article 40 of the Pension Scheme Regulations of the European Patent Office,

[1]Having regard to the Service Regulations for permanent and other employees of the European Patent Office, and in particular the social-security provisions thereof[2]

[3]Having regard to Article 14 of the Rules of Procedure of the Administrative Council of the European Patent Organisation,

Having regard to the opinion of the Budget and Finance Committee,

In agreement with the President of the European Patent Office who has consulted the General Advisory Committee,

HEREBY ADOPTS THE FOLLOWING REGULATIONS FOR THE RESERVE FUNDS FOR PENSIONS AND SOCIAL SECURITY OF THE EUROPEAN PATENT ORGANISATION:[4]

Section I
General provisions

Article 1[5]
Scope

These Regulations shall govern the position of the reserve funds for pensions and social security (hereinafter referred to as "the Funds") within the European Patent Organisation (hereinafter referred to as "the Organisation") and their structure. For the purposes of these Regulations, the Funds shall be treated as an organisational whole; it must however be possible to determine at any time the value and form of investment of the assets of the respective Funds'

Article 2[6]
Legal status and purpose of the Funds

(1) The Funds shall be a special class of asset of the Organisation designed to serve a particular purpose and shall not be possessed of their own

1 Modified by decision of the Administrative Council CA/D 2/18.
2 Inserted by decision of the Administrative Council CA/D 21/01.
3 Amended by decision of the Administrative Council CA/D 6/12.
4 Amended by decision of the Administrative Council CA/D 21/01.
5 Amended by decision of the Administrative Council CA/D 21/01.
6 Amended by decision of the Administrative Council CA/D 21/01.

legal capacity. They shall be managed by the European Patent Office (hereinafter referred to as "the Office") in accordance with the present Regulations.

(2) Within the framework of the Organisation's overall system of financing, the Funds shall serve to lend support to the pension scheme and certain areas of social security by providing the appropriate reserves.

Article 3[1]
Assets of the Funds and their investment

(1) The assets of the Funds shall be provided by the Office through allocations made to the respective Funds under the Organisation's budget. They shall be managed separately from the Organisation's other assets.

(2) Income from the Funds must be allocated to them.

(3)[2] The long-term aim of management of the Funds' assets shall be to safeguard the stability of the pension and social-security schemes by ensuring that the real value of assets is maintained and by seeking to obtain an overall return above the rate of inflation which is commensurate with the level of risk adopted over the investment horizon.

(4)[3] Particular attention shall be paid to diversification, tradeability and safety. The granting of loans by the Funds to the Office shall be precluded.

(5) For the purpose of these Regulations, assets shall be treated as belonging to the Funds but shall at all times remain the property of the European Patent Organisation.

(6)[4] The Administrative Council shall, on a proposal from the President of the Office and having heard the opinion of the Supervisory Board, determine at the time of establishment of a Fund

(a) the purpose as well as the parameters for the management of each Fund and its funding conditions;
(b) the resources necessary for each Fund in accordance with the procedure described in Article 10 of these Regulations.

(7)[5] For each Fund, the Administrative Council shall, on a proposal from the President of the Office and having heard the opinion of the Supervisory Board, determine the conditions under which a withdrawal may take place in accordance with the respective Fund's purpose.

1 Amended by decision of the Administrative Council CA/D 21/01.
2 Amended by decision of the Administrative Council CA/D 6/12.
3 Amended by decision of the Administrative Council CA/D 6/12.
4 Inserted by decision of the Administrative Council CA/D 6/12.
5 Inserted by decision of the Administrative Council CA/D 6/12.

Section II
Structure of the Fund

Article 4[1]
Responsible bodies and administrative units of the Funds

(1) The bodies responsible for the Funds shall be:

(a) the Supervisory Board
(b) the Fund Administrator.

(2)[2] The Fund Administration shall, as a minimum, cover the following four areas:

(a) Portfolio Management;
(b) Investment Analytics and Risk and Process Management;
(c) Accounting and Internal Control;
(d) Administration and Operations.

(3)[3] The responsibilities of the Fund Administrator shall be those assigned to him under the present Regulations. He shall fulfil them under the control of the Supervisory Board.

Article 5[4]
Composition of the Supervisory Board

(1) The Supervisory Board shall be composed of:

(a) two members appointed by the Administrative Council, representing the delegations of the contracting states. If no members are appointed, the Chairperson of the Budget and Finance Committee and the Deputy Chairperson of the Administrative Council shall become such members ex officio;
(b) two Office employees appointed as members by the President of the Office;
(c) two members appointed by the Central Staff Committee;
(d) one member appointed by the EPO Association of Pensioners;
(e) four external members, who shall possess the highest standard of qualification, experience and independence in accounting, auditing, financial management or compliance, and who shall be appointed by the Administrative Council in agreement with the President, for three years, renewable. From among these four members, a Chairperson and a Deputy Chairperson shall be appointed by the Administrative Council.

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1 Amended by decision of the Administrative Council CA/D 17/96.
2 Amended by decision of the Administrative Council CA/D 6/12.
3 Amended by decision of the Administrative Council CA/D 6/12.
4 Amended by decision of the Administrative Council CA/D 5/17.

(2) For each category of member identified in paragraph 1(a) to (e), one alternate shall be appointed under the respective procedure.

(3) The President of the Office and the Auditors shall be entitled to participate in all meetings of the Supervisory Board.

(4) The Fund Administrator shall participate in Supervisory Board meetings.

(5)[1] The Head of Internal Audit and Professional Standards shall participate in Supervisory Board meetings.

Article 6
Meetings

(1) Meetings of the Supervisory Board shall be summoned by the Chairperson.

(2) Each member of the Supervisory Board shall have a vote. The Chairperson shall have a casting vote.

(3) The Supervisory Board shall hold ordinary meetings twice a year; an extraordinary meeting may be called by the Chairperson or half the Board members.

(4) The procedural rules of the Administrative Council shall also apply to the Supervisory Board. However, the present Regulations or the Supervisory Board may stipulate otherwise, except where the Rules of Procedure of the Administrative Council expressly apply to subsidiary bodies

Article 7[2]
Responsibilities of the Supervisory Board

(1)[3] The Supervisory Board shall

(a) supervise the management of the Funds and assess the performance of the Fund Administrator as regards the administration of the Funds;
(b) adopt and amend, as necessary

(i) the statement of investment beliefs and the investment guidelines;
(ii) the investment strategy in the form of a strategic asset allocation seeking to obtain an overall return above the rate of inflation which is commensurate with the level of risk adopted over the investment horizon, together with its implementing rules;

(c) ensure that the risks incurred by the Funds are being controlled on the basis of direct reporting procedures;
(d) having heard the opinion of the Fund Administrator, be entitled to determine the objectives for the Fund Administrator in compliance with these Regulations;
(e) give an opinion on the annual report of the Funds, the annual statement of net assets of the Funds and the auditors' report on the Funds before these are forwarded to the Budget and Finance Committee and

1 Amended by decision of the Administrative Council CA/D 12/24..
2 Amended by decision of the Administrative Council CA/D 17/96.
3 Amended by decision of the Administrative Council CA/D 6/12.

the Administrative Council and, on a proposal from the auditors, recommend that the actions of the Fund Administrator during the year be approved;

(f) have a say in the appointment of the Fund Administrator.

(2)[1] The Administrative Council may reserve the right to take decisions or have matters referred to it in cases where questions of fundamental importance arise. Moreover the Chairperson of the Supervisory Board may, on their own initiative or at the request of one or more members, defer a decision of the Supervisory Board and refer the matter to the Administrative Council for decision. The Chairperson of the Supervisory Board shall ensure that the Administrative Council receives all the necessary information.

(3) The Supervisory Board may entrust certain tasks to a smaller group, subject to authorisation by the Administrative Council.

(4)[2] The Supervisory Board shall be assisted by Internal Audit and Professional Standards for those services provided by it under these Regulations.

(5)[3] The Supervisory Board may call upon experts or advisers either on an ongoing or an ad hoc basis, as the circumstances require.

Article 8[4]
The Fund Administrator

(1)[5] The Fund Administrator shall be assigned to their duties by the Administrative Council on a proposal from the President of the Office in agreement with the Supervisory Board.

(2)[6] The Fund Administrator shall be an employee of the Office. The Service Regulations for permanent and other employees of the Office shall apply to the Fund Administrator only in so far as there is express provision to that effect in their contract of employment. In exercising their functions under the present Regulations they shall be subject to the hierarchical and disciplinary authority of the Administrative Council. The President of the Office shall be responsible for ordering any provisional action under Article 104(1) to (3) of the Service Regulations for permanent and other employees of the European Patent Office.

(3)[7] The Fund Administrator shall act as authorising officer as defined in the Financial Regulations for all transactions carried out by them in the course of management of the Funds' assets in accordance with the Financial Regulations and the provisions contained in the present regulations governing the management of the Fund's assets.

1 Amended by decision of the Administrative Council CA/D 6/12.
2 Amended by decision of the Administrative Council CA/D 12/24.
3 Inserted by decision of the Administrative Council CA/D 6/12.
4 Amended by decision of the Administrative Council CA/D 17/96.
5 Amended by decision of the Administrative Council CA/D 11/22.
6 Amended by decision of the Administrative Council CA/D 11/22.
7 Amended by decision of the Administrative Council CA/D 11/22.

(4) The Administrative Council shall be the body responsible for approving the actions of the Fund Administrator.

(5)[1] The Fund Administrator may, after obtaining authorisation from the Supervisory Board, call upon the services of experts.

Article 9[2]
Responsibilities of the Fund Administrator

The Fund Administrator shall

(a) be responsible for the management and the organisation of the Fund Administration, in particular in accordance with these Regulations and their implementing rules;

(b) propose the investment beliefs, investment guidelines, investment strategy, strategic asset allocation and other implementing rules to the Supervisory Board;

(c) implement the strategy adopted by the Supervisory Board and the relevant investment policy;

(d) draw up the annual report and the annual statement of net assets of the Funds and submit these to the Administrative Council via the Supervisory Board and the Budget and Finance Committee;

(e) draw up an account of the Funds' total costs with the Office's assistance;

(f) submit periodic management reports to the Supervisory Board;

(g) conclude and terminate contracts with financial institutions concerning the custody of investments subject to the approval of the Supervisory Board and shall ensure that such contracts are properly executed;

(h) conclude and terminate contracts with the external fund managers subject to the approval of the Supervisory Board and shall ensure that such contracts are properly executed;

(i) set up appropriate risk controls and risk management methods in accordance with the purposes defined in Article 3 of these Regulations;

(j) evaluate individual investment results;

(k) establish a code of procedure for delegating authorising powers to staff entrusted with the investment of assets after obtaining the opinion of the Supervisory Board;

(l) inform the Supervisory Board of how the Fund Administration is organised;

(m) participate in meetings of the Budget and Finance Committee and the Administrative Council to the extent that they relate to issues of concern to the Funds.

1 Amended by decision of the Administrative Council CA/D 6/12
2 Amended by decision of the Administrative Council CA/D 6/12

Article 10[1]
Administration of the Funds

(1) The President of the Office shall provide the Fund Administrator with the necessary resources, as set out in the adopted budget. The Fund Administrator may in addition utilise the general services of the Office when he needs to do so.

(2) With respect to the Funds' annual budget appropriations for staff, equipment and other resources, the following procedure shall be followed:

Each year the Fund Administrator shall prepare a substantiated budget request for staff, equipment and other resources to meet the Funds' objectives. This request shall be examined and discussed with the relevant Office departments, whereupon the Fund Administrator together with the Chairman and Deputy Chairman of the Supervisory Board shall finalise it. The final budget request shall be presented by the Fund Administrator to the Supervisory Board for opinion, before being forwarded to the President of the Office for consideration for the yearly draft budget.

(3) Fund Administration staff shall be employees of the Office and shall as such be subject to the regulations governing Office employees. The hierarchical and disciplinary authority over them in the exercise of their duties in connection with management of the Funds shall be transferred to the Fund Administrator. When managing assets under Article 12, paragraph 4, Fund Administration staff shall be subject to the hierarchical and disciplinary authority applicable to Office employees.

Article 11[2]
Accounting and control system

(1)[3] The Funds shall have a system for recording and monitoring internally and externally managed assets of the Funds that is separate from that of the Office. The assets of the Funds shall be recorded on the basis of market value. The Funds' accounts must be consolidated with those of the Office.

(2)[4] The President of the Office shall appoint the Funds' accounting officer in agreement with the Fund Administrator. The Funds' accounting officer shall be assistant accounting officer within the meaning of Article 66(2) of the Financial Regulations.

(3)[5] The Funds' accounting officer shall in their capacity as the Funds' compliance officer also be accountable to the Fund Administrator for checking, continually and promptly, that the investment activity of the internal authorising officers and the external fund managers complies in content and form with all regulations applying to the Funds.

1 Amended by decision of the Administrative Council CA/D 6/12
2 Amended by decision of the Administrative Council CA/D 17/96.
3 Amended by decision of the Administrative Council CA/D 21/01.
4 Amended by decision of the Administrative Council CA/D 6/12
5 Amended by decision of the Administrative Council CA/D 6/12

(4)[1] If the Funds' accounting officer considers an authorisation by an authorising officer to be incorrect and is unable to clarify the matter with the latter, they shall inform the Fund Administrator. Should the Fund Administrator not take sufficient action within reasonable time, the Funds' accounting officer shall inform the Office's accounting officer and the Head of Internal Audit and Professional Standards. If the Funds' accounting officer considers an authorisation by an authorising officer to be seriously incorrect, they shall, in addition to the Fund Administrator, inform the Office's accounting officer and the Head of Internal Audit and Professional Standards directly.

Article 12[2]
Management of assets

(1) Transactions relating to management of assets shall not be receipts and expenditure within the meaning of the Financial Regulations. They may not be the subject of a commitment, validation or authorisation of expenditure or of the issue of a receipt order.

(2) The following procedures must be observed for the various transactions:

(a)[3] For all transactions involving the purchase and disposal of securities, derivative instruments, currencies, time deposits and other assets, the authorising officer shall transmit the purchase or sale order to the Funds' accounting officer. The accounting officer shall record the order and check that it has been executed correctly by the bank or counterparty and that securities have been entered in and removed from portfolios held by the custodian banks.

For the sale of securities not listed on the stock exchange or not deposited with one of the custodian banks, special rules must be laid down, as provided for in paragraph 3.

(b)[4] The aggregate profits or losses on sales must be countersigned by the Fund Administrator. For losses, the appropriations provided for in the relevant budget article shall not be limitative.

(c) The Funds' accounting officer shall be responsible both for keeping safe the monies and securities and for ensuring that the income obtained therefrom is correct and complete.

The expenditure incurred as a result of safeguard measures must be submitted regularly to the authorising officer for issue of a payment order in due form.

(d)[5] For unrealised gains and losses at the close of the accounting period the authorising officer must issue the appropriate documentation in due form. The appropriations provided for in the relevant budget article shall not be limitative.

1 Amended by decision of the Administrative Council CA/D 12/24.
2 Amended by decision of the Administrative Council CA/D 17/96.
3 Amended by decision of the Administrative Council CA/D 11/22.
4 Amended by decision of the Administrative Council CA/D 6/12
5 Amended by decision of the Administrative Council CA/D 6/12

(e) All transactions involving a transfer of monies or other assets of the Funds from one banking institution to another must be authorised and signed by the Funds' accounting officer.

(3)[1] Internal rules fixing the details of the procedures to be followed and checks to be carried out, and also covering the use of derivative instruments, must be laid down by common accord between the Fund Administrator and the Office's accounting officer. These rules must be submitted for agreement to the Supervisory Board.

(4)[2] By special agreement between the President of the Office and the Fund Administrator and after the Supervisory Board has been consulted, Fund Administration staff may be released to a limited extent to invest budget funds of the Office.

Article 13[3]
Special provisions concerning the Financial Regulations

(1) The Financial Regulations shall apply to the Funds and the Funds' investment activity within the meaning of the Investment Guidelines.

(2) Specifically, though potentially applicable to investment activity, Article 21 on attribution to a budget heading, Article 22a on duties of authorising officers, Article 33 on delegation of powers, Article 42 to 44 on commitment of expenditure, Article 49(4) on advance payments, Article 53 on aspects of payment of expenditure, Article 54(3) on individual payments, Article 64(a) and (c) on the administration of funds shall not be applicable to the Funds' investment activity.

(3) Furthermore, investment activity within the meaning of the Investment Guidelines shall not be considered as the placing of contracts. Therefore, Articles 55 to 60 of the Financial Regulations and any related rules or implementing rules shall not apply. Exceptions hereto are the purchase and sale of immovable property.

(4) Article 39 of the Financial Regulations on the liability of the accounting officer shall apply to the Funds' accounting officer also in respect of the provisions concerning Funds' accounting.

Article 14[4/5]
Internal Audit and Professional Standards

(1)[6] The Office's Internal Audit and Professional Standards shall provide independent compliance and risk assurance services and audits to the Supervisory Board in accordance with the provisions contained in these

1 Amended by decision of the Administrative Council CA/D 6/12
2 Inserted by decision of the Administrative Council CA/D 21/01.
3 Amended by decision of the Administrative Council CA/D 6/12
4 Inserted by decision of the Administrative Council CA/D 6/12
5 Amended by decision of the Administrative Council CA/D 11/22.
6 Amended by decision of the Administrative Council CA/D 12/24.

Regulations and in accordance with the relevant provisions of the Internal Audit and Professional Standards Charter.

(2) The compliance assurance function shall provide assurance that the investment activity of the internal authorising officers and the external fund managers continually complies in content and form with all regulations applying to the Funds. The risk assurance function shall entail regular monitoring of operational risks taken and risks related to investment activity. The compliance assurance officer and risk assurance officer shall carry out their functions within the Internal Audit and Professional Standards unit of the Office and shall report solely to the Head of Internal Audit and Professional Standards. The findings and the recommendations of the compliance assurance officer and the risk assurance officer shall be reported in due time via the Head of Internal Audit and Professional Standards to the Fund Administrator, who shall be given an opportunity to comment thereon, whereafter they shall be sent via the Head of Internal Audit and Professional Standards to the Supervisory Board for decision and for information to the President of the Office.

(3) After the Fund Administrator, the President of the Office and the Board of Auditors have had an opportunity to comment on the audit plan relating to the Funds drawn up by Internal Audit and Professional Standards, it shall be sent by the Head of Internal Audit and Professional Standards to the Supervisory Board for decision.

(4) After the Fund Administrator has had an opportunity to comment on the audit reports on the Funds drawn up by Internal Audit and Professional Standards, they shall be sent to the Supervisory Board for decision on the recommendations contained therein. A copy shall be sent to the President of the Office and to the Board of Auditors for information.

Section III
Final provisisons

Article 15[1]
Validity

These Regulations shall enter into force on 1 January 1992.

Done at Munich, 29 October 1991

For the Administrative Council

The President

1 Amended by decision of the Administrative Council CA/D 6/12

STATEMENT OF INVESTMENT BELIEFS

Decision of the Supervisory Board of 24 September 2013 approving the Statement of Investment Beliefs for the Reserve Funds for Pensions and Social Security of the European Patent Organisation

THE SUPERVISORY BOARD OF THE RESERVE FUNDS FOR PENSIONS AND SOCIAL SECURITY OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the Regulations for the Reserve Funds for Pensions and Social Security of the European Patent Organisation, and in particular Article 3, paragraphs 3 and 4 and Article 7, paragraph 1(b) (i) thereof,

HAS DECIDED AS FOLLOWS:[1]

A. OBJECTIVES

1. The main objective of the RFPSS is to maximize long-term total return given an appropriate level of risk.
2. To achieve this main objective a long-term investment strategy with an appropriate asset management approach has to be implemented and suitable asset classes have to be used.
3. The RFPSS intend to make use of investment opportunities available on a global basis.
4. It shall be acknowledged that fluctuations in capital markets may cause the value of the RFPSS to fall for considerable periods of time. In line with the long term investment horizon of the RFPSS, both absolute and relative returns shall be assessed over an adequate and commensurate period of time.

B. ASSET CLASSES

5. High risk assets are typically expected to outperform low risk assets over the long term since excess return is a compensation for, inter alia, market volatility and illiquidity.
6. Asset classes which may be subject to large fluctuations in value in the short term shall be considered as suitable for investment if the expected returns have a positive contribution to the long term results, taking into account an appropriate level of risk. Tradeability, although important, is not a primary criterion for the inclusion of any specific asset class.
7. Diversification across asset classes plays a fundamental role in the management of investment risk. The risk of an individual security shall in principle be assessed in the context of the whole portfolio.

1 Decision of the Supervisory Board CA/101/13.

8. Equity, in view of the risk premium available, shall represent the bulk of the RFPSS investments as long as the investment horizon is sufficient to overcome short term fluctuations.

9. Fixed income shall be considered a lower risk asset class and mainly a stabiliser of returns for the whole portfolio.

10. Property and commodities are essentially providers of diversification benefits and protection against unexpected inflation.

11. Other alternative investments may provide significant diversification benefits while maintaining or improving the expected return; however, they tend to be highly illiquid, expensive and resource-consuming. Therefore, alternative investments shall be used in a conservative and prudent manner, also taking into account the inherent cost of diversification.

C. STRATEGIC ASSET ALLOCATION

12. The RFPSS asset mix of the considered asset classes is the main driver of total return and risk. It shall therefore be carefully evaluated and reassessed on a regular basis, particularly if new asset classes become available.

D. MANAGEMENT PRINCIPLES

13. Capital markets are generally efficient and passive management is a low cost form of exposure to the returns provided by some asset classes. However, pricing inefficiencies exist and can be exploited by skilled managers.

14. Whilst recognising that the average investment manager underperforms the markets, it shall be acknowledged that properly structured forms of active management can also provide additional returns, given that some market inefficiencies are still exploitable and many investors act in a framework of bounded rationality. Active management can generate an excess performance, however, it needs to act within firmly established investment guidelines and, as demonstrated by the results of academic research, be pursued essentially through a number of limited and diversified active positions.

15. As a result, both active and passive strategies shall be used in the management of the RFPSS to varying degrees, depending on the efficiency of the respective market, costs and resources available.

16. Whilst long term returns for some asset classes are predictable to some extent, short term price movements are not. As a result, tactical deviations from the strategic allocation shall be limited and as a matter of principle carried out on the basis of well-proven asset allocation decision making models.

17. In view of the global scope of the RFPSS, the portfolio is exposed to currency risk. Currency markets are not completely efficient. The RFPSS currency exposure shall be strategically hedged, but active management of currency risk shall be pursued to a pre-defined and limited extent.

18. Rebalancing the portfolio on a regular basis has proved to be an effective instrument in achieving long term excess performance and shall continue to be normal practice for the RFPSS.

19. Derivative products are recognised as standard instruments available to institutional investment managers. They shall be used for reasons of efficient portfolio management, controlling and managing risk and asset allocation purposes.

20. Risk management provides risk awareness and intelligence for the investment activity. A disciplined risk management approach which emphasizes diversification of assets and incorporates ongoing risk measurement, monitoring and management is an important part of the Fund administration activity.

E. OTHER CONSIDERATIONS

21. Internal management, with its open architecture approach, especially making use in a flexible way of external specialists, has proved to be capable of achieving a good performance at a very low level of costs, maintaining independence from financial institutions whose interests may differ from those of the RFPSS. Furthermore, consistency in management over different business cycles has proved to be an important factor in reaching the investment objectives. In addition, internal management assures the ongoing development and cultivation of valuable in-house expertise.

22. People and cultures are critical success factors. In the context of rapid changes, and dynamic interaction with other participants in global financial markets, continuous education of those involved in the supervision and management of the Funds is therefore essential. Monitoring the changes that take place in both investment professional practice and theory, and evaluating them in a diligent and sensible way, enhances the long term, risk adjusted return and shall be considered standard practice for the management of the RFPSS.

This decision shall enter into force on 1 October 2013.

New pension scheme regulations and implementing rules

New pension scheme regulations

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NEW PENSION SCHEME REGULATIONS OF THE EUROPEAN PATENT OFFICE[1]

applicable to employees taking up their duties
on or after 1 January 2009

CHAPTER I
GENERAL PROVISIONS

Article 1[2]
Scope

(1) The pension scheme established by these Regulations shall apply to the employees of the European Patent Office, hereinafter referred to as "the Office", within the meaning of Article 1 of the Service Regulations, unless their letter of appointment or contract of employment expressly provides otherwise.

(2) It shall apply to the President and vice-presidents and to contract staff, within the meaning of Article 1, paragraphs 5 and 7, of the Service Regulations, who take up their duties on or after 1 January 2009 only to the extent expressly provided for in their contract and terms of employment.

(3) It shall not apply to other categories of personnel defined by the Office, such as experts, consultants, temporary staff, auxiliary staff, employees and personnel hired under local labour legislation, etc.

(4) In these Regulations the term "employee" means the staff referred to in paragraphs 1 and 2. The term "Organisation" refers to the European Patent Organisation.

(5) For the purpose of these Regulations, a registered partnership shall be treated as a marriage provided that the registered partnership has been legally recognised in one of the Contracting States.

Article 2
Deferred entitlement

Where the medical examination which every employee has to undergo at the time of his appointment shows him to be suffering from an illness or disablement, the Office may decide that, as regards risks arising from an illness or disablement

1 Decision of the Administration Council CA/D 12/08.

2 Amended by decision of the Administrative Council CA/D 17/23, see transitional provisions:
Artikel 5
(1) Notwithstanding Articles 14a(6) and 65(1)(d) ServRegs, employees in service before 1 January 2024 who entered into a registered partnership before that date may, but need not, inform the Office of their registered partnership.
(2) By way of derogation from Article 65(1)(c) ServRegs, should employees referred to in paragraph 1 choose to not inform the Office of their registered partnership by 30 June 2024, they will permanently forfeit all related entitlements and benefits.

existing before he took up his duties, the said employee shallnot be entitled to the death benefits provided for in these Regulations until the expiry of a period not exceeding five years from the date on which he entered the service of the Office.

Article 3
Definition of salary

(1) For the purposes of these Regulations, salary shall be the monthly basic salary of the employee as defined in Article 64, paragraph 2, of the Service Regulations, unless otherwise indicated.

(2) The minimum salaries taken into consideration for the calculation of pensions shall be those of serving employees, whether in respect of pensions to be paid in the future or those actually being paid.

(3) The salaries taken into consideration shall be those in force upon assessment of the final pension, unless otherwise indicated.

Article 4
Definition of service conferring entitlement to benefits

(1) Subject to the provisions of Articles 5 and 35, paragraph 1, entitlement to benefits under these Regulations shall be determined by the total of the periods actually served at the Office as an employee as defined in Article 1, paragraph 4, including any break in service, other than those mentioned in paragraph 2, of less than one year, subject to payment of all the contributions due for that period, calculated on the basis of the grade held before the break and taking account of any theoretical step advancement, plus compound interest on the sum thereof at 4% per annum from the date when the contributions would have been due without the break in service.

(2) The following shall also be taken into account:

(i)[1] periods of incapacity in accordance with Article 62b of the Service Regulations;

(ii)[2] periods of non-active status in respect of which pension scheme contributions have been paid in accordance with Articles 43, 44, 44a and 44b of the Service Regulations;

(iii) periods of entitlement to the allowance for reserve status provided for in the Service Regulations, up to a maximum of five years, subject to the employee concerned having paid his pension contributions during such periods.

1 Amended by decision of the Administration Council CA/D 2/15.
2 Amended by decision of the Administration Council CA/D 8/22.

Article 5
Calculation of service conferring entitlement to benefits

(1) Where an employee appointed by the Office has served with it before, his entitlement to benefits under the terms of Article 4 shall be conditional upon his paying over to the Office the amounts paid to him on leaving its service previously pursuant to Article 11, plus compound interest on such amounts at 4% per annum from the date when the employee received them until the date when they are paid over in accordance with this paragraph.

Should the employee fail to pay over the amounts in question, reckonable service shall count only as from the new appointment.

(2) Where an employee appointed by the Office was previously drawing a retirement pension in respect of service with the Office, payment of that pension shall cease.

If the employee refunds to the Office the pension payments he has received, the provisions of Article 4 shall apply on termination of his employment at the Office.

If he does not make this refund, the years of service for which credit was acquired in the employment that originally entitled him to payment of the discontinued retirement pension shall be taken into account, in the calculation of the retirement pension due on cessation of his new employment, by reference to the salary for his last grading in such previous employment, up to the salary mentioned in Article 10, paragraph 1; moreover, that part of the final pension figure shall be abated by 5% for each whole year during which the employee drew the initial pension before the age of sixty.

(3) Where an employee retires at a grade and step lower than that which he had previously held in the Office, his entitlement to benefits under these Regulations shall be determined by taking into account the total of his years of service, and the benefits shall be calculated on the basis of the salary for the highest grading held by him, up to the salary mentioned in Article 10, paragraph 1.

However, a reduction shall be made in the number of years of service to be credited to him in respect of time served at a lower grade and step after having held the grade by reference to which benefits are calculated; this reduction shall be proportionate to the difference between the said gradings.

Article 6
Reckonable years of service

(1) The benefits provided for under these Regulations shall be calculated by reference to reckonable years of service consisting of:

(i) the total length of the employee's service, calculated in accordance with Articles 4 and 5;

(ii) service credited in accordance with Article 12, paragraph 1.(2) Incomplete years of reckonable service shall be credited on the basis of one twelfth of a year for each whole month of service. For pension calculation purposes, the period remaining shall be treated as a whole month if it is equal to or more than 15 days.

However, the period remaining shall not be taken into account for the purpose of calculating the minimum of 10 years' service required for entitlement to the retirement pension provided for in Article 7 of these Regulations.

(3)[1] The method of crediting part-time service and periods of incapacity during which the employee paid reduced contributions to the pension scheme shall be laid down in the Implementing Rules hereto.

1 Amended by decision of the Administrative Council CA/D 2/15.

CHAPTER II
RETIREMENT PENSION AND SEVERANCE GRANT

Section 1
Retirement pension

Article 7
Conditions of entitlement

An employee who has completed ten or more years of actual service within the meaning of Article 4 shall be entitled to a retirement pension.

Article 8
Age of entitlement - Deferred pension and early pension

(1) Employees shall become eligible for a retirement pension at the age of sixty.

(2) Pension rights shall continue to accrue to an employee remaining in the service after pensionable age, but his pension shall not exceed the maximum amount laid down in Article 10, paragraph 2.

(3) If an employee retires before pensionable age, payment of his retirement pension shall be deferred until he reaches that age.

(4) However, an employee who retires before pensionable age may request early payment of his pension provided he is at least fifty years old.

In such cases the retirement pension shall be reduced by reference to the age of the employee when he starts to draw his pension, as shown in the table below.

Age when payment of pension begins	Ratio of pension on early retirement to pension at 60
50	0.51
51	0.54
52	0.57
53	0.61
54	0.65
55	0.77
56	0.81
57	0.85
58	0.90
59	0.95

Article 9
Commencement and cessation of entitlement

(1) Entitlement to payment of a retirement pension shall commence on the first day of the month following that in which the employee became eligible for such pension.

(2) Entitlement shall cease at the end of the month in which the employee dies.

Article 10[1]
Rate of pension

(1) Except where paragraphs 2 and 3 of Article 5 apply, the amount of the retirement pension shall be, per reckonable year of service within the meaning of Articles 4 and 6, equal to 2% of the salary paid in respect of the last grade and step the employee had held, capped at twice the salary for grade G1, step 4. The last grade shall be that reached not less than one year before retirement. The step shall be that in which he was classified in that grade.

(2) The maximum amount of the pension shall be 70% of the salary mentioned in paragraph 1, subject to the provisions of paragraph 3.

(3) The amount of the retirement pension shall not be less than 4% of the salary for grade G1, step 4, per reckonable year of service credited pursuant to Articles 4 and 6; it may not, however, exceed the employee's last salary as defined in Article 3 above. Calculation of the minimum retirement pension shall take into account any period of parttime work, in proportion to the time worked.

(4) Notwithstanding the provisions of paragraph 1, where at the time of termination of his service an employee was working part-time or was totally or partially discharged from his duties for reasons of incapacity under Article 62b of the Service Regulations, the salary taken into account shall be the one which he would have received for full-time work.

Section 2
Severance grant

Article 11[2]
Severance grant

An employee whose service terminates otherwise than by reason of death and who is entitled neither to a retirement pension nor to the benefit of the provision in Article 12, paragraph 2, shall be entitled upon leaving the service to payment of:

(i) the aggregate amount deducted from his salary in respect of his pension contributions, plus compound interest at the rate of 4% per annum;

1 Amended by decision of the Administrative Council CA/D 2/15.
2 Amended by decision of the Administrative Council CA/D 2/15.

(ii)[1] a severance grant equal to one month and a half of the salary mentioned in Article 10, paragraph 1, multiplied by the number of reckonable years of service credited within the meaning of Article 6, without prejudice to the reduction provided for in Article 94, paragraph 1(h), of the Service Regulations;

(iii) one third of the amounts paid to the Office under Article 12, paragraph 1, plus compound interest at the rate of 4% per annum. However, if these amounts have to be refunded in their entirety to his previous employer, the reckonable years of service corresponding to those amounts shall be disregarded in the calculation of the severance grant.

Section 3
Inward and outward transfer of pension rights

Article 12
Inward and outward transfer of pension rights

(1) An employee who enters the service of the Office after leaving the service of a government department, a national organisation, an international organisation or a firm may arrange for payment to the Office, in accordance with the Implementing Rules hereto, of any amounts corresponding to the retirement pension rights accrued under his previous pension schemes, provided that those schemes allow such transfers to be made.

In such cases the Office shall determine, by reference to the Implementing Rules hereto, the number of years of reckonable service with which he shall be credited under its own pension scheme.

(2) An employee who leaves the service of the Office to enter the service of a government department, a national organisation, an international organisation or a firm shall be entitled to transfer to his new pension scheme:

- the actuarial equivalent of his retirement pension rights accrued under these Regulations, such equivalent being calculated in accordance with the Implementing Rules hereto;
- or, in the absence of such rights, the amounts stipulated in Article 11.

1 Amended by decision of the Administrative Council CA/D 7/17.

CHAPTER IIA[1/2]
RETIREMENT PENSION FOR HEALTH REASONS

Article 12a[3]
Conditions of entitlement

(1) A retirement pension for health reasons shall be payable to an employee who is under the age limit laid down in Article 54 paragraph 1 letter a of the Service Regulations and who, at any time during the period in which pension rights are accruing to him, has reached 55 years of age and has been totally discharged from his duties for reasons of incapacity as defined in Article 62b of the Service Regulations for ten years.

(2) The employee shall be retired on the first day of the month following that in which he fulfilled the conditions laid down in paragraph 1.

Article 12b[4]
Rate of pension

(1) Subject to Article 5, paragraph 3, the retirement pension for health reasons shall be calculated as foreseen in Article 10.

(2) If the employee has not yet reached the age of sixty years at the date of retirement, the following shall apply in addition:

- the number of reckonable years shall be calculated as if he had remained in the service until the age of sixty years;
- for the period of time between the date of retirement and the end of the month in which the employee reaches the age of sixty years, the reference salary shall be 70% of the salary laid down in Article 10, paragraph 4.

Article 12c[5]
Gainful activities or employment

(1) The former employee in receipt of a pension under this Chapter is not allowed to perform any gainful activities or employment.

(2) The above shall apply only up to the age limit laid down in Article 54, paragraph 1(a) of the Service Regulations.

1 Inserted by decision of the Administrative Council CA/D 2/15.
2 See also the transitional measures in Articles 71 to 74 in CA/D 2/15.
3 Inserted by decision of the Administrative Council CA/D 2/15.
4 Inserted by decision of the Administrative Council CA/D 2/15.
5 Inserted by decision of the Administrative Council CA/D 2/15.

CHAPTER III
SURVIVOR'S PENSION

Article 13
Conditions of entitlement

(1)[1] A survivor's pension shall be payable to the surviving spouse

(i) of an employee who died in service, provided they had been married to each other for at least one year at the time of the employee's death;
(ii) of a former employee entitled to a deferred pension, if they had been married to each other for at least one year at the time when the employee left the service or for at least ten years at the time of his death;
(iii) of an employee drawing a retirement pension for health reasons, if they were married to each other at the time of his retirement, or had been married to each other for at least five years at the time of his death;
(iv) of a former employee drawing a retirement pension, if they had been married to each other for at least one year at the time of his retirement or for at least five years at the time of his death.

The last-mentioned period shall be extended to ten years if the employee had retired before reaching the age of sixty years.

(2) The conditions laid down above with regard to minimum duration of the marriage shall be waived where there are one or more children of the marriage or of a marriage of the employee contracted prior to his leaving the service inasmuch as the surviving spouse is providing for their needs; in such case the survivor's pension shall be payable under the derogation provided for in the present paragraph, for so long as the children are actually being so provided for.

When they are no longer being so provided for, the survivor's pension shall nonetheless continue to be payable for so long as the surviving spouse does not have an income of his own from the exercise of any occupation, or from any retirement pension or other survivor's pension, equal to at least the amount of the abovementioned survivor's pension.

(3) The award of a survivor's pension shall be subject to the provisions of Article 2.

1 Amended by decision of the Administrative Council CA/D 2/15.

Article 14[1]
Rate of pension

(1) The pension of the survivor of an employee or former employee shall be 60% of

(i) the retirement pension that would have been payable to the serving employee now deceased, on the basis of his reckonable service credited up to the time of his death, without the need for a minimum of ten years' service under the provisions of Article 7;
(ii) the deferred retirement pension that would have been paid to the employee at the age of sixty;
(iii) the retirement pension payable to the employee at the time of his death, disregarding any reductions under Article 8, paragraph 4.

(2) The survivor's pension shall not be less than 35% of the employee's last salary; nor shall it be less than the salary for grade G1, step 4.

(3) However, the pension shall not exceed the amount of the former employee's own pension in the cases covered by paragraph 1(ii) and (iii) above.

Article 15
Reduction for difference in age

Where the difference in age between the deceased employee and the surviving spouse (the latter being the younger), less the length of time they have been married, is more than ten years, the survivor's pension, calculated in accordance with the foregoing provisions, shall be subject to a reduction, per year of residual difference, amounting to:

- 1% for the years between 10 and 20;
- 2% for the years 20 up to but not including 25;
- 3% for the years 25 up to but not including 30;
- 4% for the years 30 up to but not including 35;
- 5% for the years from 35 upwards.

Article 16
Remarriage

Entitlement to a survivor's pension shall cease on remarriage. The survivor shall be entitled to immediate payment of a capital sum equal to twice the annual amount of the survivor's pension, if there are no dependent children to whom the provisions of Article 19, paragraph 3, apply.

Article 17
Rights of a former spouse (divorced spouse)

(1) The former spouse of a non-remarried employee shall, on his death, be entitled to a survivor's pension, provided the employee was, by virtue of a

1 Amended by decision of the Administrative Council CA/D 2/15.

court decision which has become final and binding, under an obligation to pay maintenance to the former spouse; but the survivor's pension shall not exceed the amount of such maintenance.

This entitlement shall not arise if the former spouse remarried before the employee died. If remarriage takes place after the employee's death, Article 16 shall apply.

(2) Where an employee dies leaving a spouse entitled to a survivor's pension and a nonremarried former spouse fulfilling the conditions laid down in paragraph 1 above, the whole of the survivor's pension shall be divided between the aforementioned persons in proportion to the duration of their marriages.

The amount to which a non-remarried former spouse is entitled shall not, however, be more than the amount of the maintenance payable at the time of the death of the employee.

(3) Where one of the persons entitled to a survivor's pension dies, renounces his share or forfeits his rights under Article 29, or where the amount of his pension has been restricted under the terms of the second sub-paragraph of paragraph 2 above, his share shall accrue to the share of the other person, except where pension rights revert to orphans, as provided for under Article 19, paragraph 2, last sub-paragraph. In such case the restriction laid down in the second sub-paragraph of paragraph 2 above shall apply.

(4) Reductions for difference in age as provided for in Article 15 shall be applied separately to pensions calculated in accordance with the present Article.

Article 18
Commencement and cessation of entitlement

(1) Entitlement to a survivor's pension shall commence on the first day of the month following that in which the employee died. However, this pension shall not become payable until the last payment has been made of the salary due to the deceased employee under the Service Regulations and rules applicable to employees of the Office.

(2) Entitlement to a survivor's pension shall cease at the end of the month in which the recipient of the pension dies or ceases to satisfy the conditions for entitlement to that pension.

CHAPTER IV
ORPHAN'S OR DEPENDANT'S PENSION

Article 19
Rate of pension

(1) Where an employee still serving or entitled to an invalidity allowance or to an outright or deferred retirement pension dies, his children or other dependants shall be entitled to a pension under the terms of paragraphs 2 and 3 below.

(2) Where the employee dies leaving a spouse entitled to a survivor's pension, the pension referred to in paragraph 1 above shall be:

- 40% of the survivor's pension, disregarding any reductions pursuant to Article 15, but not less than half the salary for Grade G1, step 4[1],
- increased in respect of the second and every further beneficiary by an amount equal to the allowance for a dependent child.

The pensions referred to in this paragraph shall be brought up to the levels provided for in paragraph 3 in the event of the spouse entitled to a survivor's pension dying, remarrying or losing her rights to that pension.

(3) Where the employee dies without leaving a spouse entitled to a survivor's pension, the pension referred to in paragraph 1 above shall be:

- 80% of the theoretical survivor's pension, disregarding any reductions pursuant to Article 15, but not less than the salary for Grade G1, step 4[2],
- increased in respect of the second and every further beneficiary by an amount equal to twice the allowance for a dependent child.

(4) Notwithstanding the provisions of Article 20, children in common by blood or adoption of two married, unmarried or divorced employees shall be entitled to a pension under this Article following the death of the employee who was not being paid the dependant's allowance at the time of his death if the said children were, at that time, subject to the parental responsibility of this employee and continuously supported by him.

In the case of divorced employees, entitlement shall be subject to the obligation, by virtue of a court decision which has become final and binding, to pay maintenance for the said children, and the orphan's pension shall not exceed the amount of such maintenance.

(5) The children or other dependants of a widowed staff member whose deceased spouse was not employed by the Office shall each be entitled to a pension of twice the allowance for a dependent child.

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Amended by decision of the Administrative Council CA/D 10/14.

(6) The total amount of the pensions provided for in the above paragraphs shall be divided equally among all beneficiaries.

(7) The expression "dependent children" shall mean children who were effectively dependent on the employee or former employee at the time of his death or were born not more than 300 days thereafter.

The expression "other dependants" shall mean persons who, exceptionally, had been granted rights similar to those of dependent children under the Service Regulations before the death of the employee or former employee.

Article 20
Cessation of entitlement

Entitlement to a pension under Article 19 shall cease at the end of the month in which the child or other dependant ceases to qualify for the dependant's allowance under Articles 69 and 70 of the Service Regulations.

Article 21
Beneficiaries of more than one category

(1) Where an employee leaves a surviving spouse and also children of a previous marriage or other persons entitled under him, the total pension, calculated as for a surviving spouse having all these persons dependent on him, shall be apportioned among the various persons concerned in proportion to the pensions which would have been payable to each category if treated separately.

(2) Where there are children born of different parents, the total pension, calculated as though all the children were of the same parentage, shall be apportioned among the various persons concerned in proportion to the pensions which would have been payable to each category if treated separately.

(3) For the purpose of calculating these apportionments, all children recognised as dependants of the deceased employee shall be included in the category of children of the marriage to the employee.

(4) In the case referred to in paragraph 2 above, persons recognised as dependants, other than children, shall be included in the same category as the children to whom they are assimilated for the purpose of the apportionment.

CHAPTER V
FAMILY ALLOWANCES

Article 22
Conditions

(1)[1] The family allowances comprising household allowance, dependant's allowances, young child allowance and education allowance granted under the Service Regulations shall be paid:

(i) to the recipient of a retirement pension;
(ii) to the recipient of a survivor's pension;

The household allowance shall be calculated by reference to the pension of the recipient. However, the dependant's allowances, young child allowance and education allowance shall be paid in full.

(2) The amount of the allowance for a child or other dependant payable to the person entitled to a survivor's pension shall be twice the normal amount.

(3) If the recipient of a retirement or survivor's pension receives other family benefits in respect of the same children, the amount of the latter benefits shall be deducted from the allowances provided for in this Article.

(4) Entitlement to the allowances provided for in this Article shall cease at the end of the month in which the child or other dependant ceases to satisfy the conditions for entitlement to those allowances under the Service Regulations.

Article 23
Ceiling of benefits payable to surviving spouses and orphans

The total amount payable in respect of survivor's, orphan's and dependant's pensions and of family allowances shall not exceed 70% of basic salary, plus the family allowances to which the deceased employee was entitled.

The amounts payable in respect of survivor's, orphan's and dependant's pensions shall, where applicable, be reduced in proportion to the share of each beneficiary.

1 Amended by decision of the Administrative Council CA/D 4/21.

CHAPTER VI
PROVISIONAL PENSIONS

Article 24
Conditions of entitlement

(1) Where an employee or former employee in receipt of a retirement pension has been missing for more than one year in circumstances justifying a presumption of death, the spouse or persons recognised as dependants may provisionally be awarded a survivor's pension, or orphan's pension, as appropriate.

(2) Paragraph 1 shall apply to persons recognised as dependants of a widowed spouse in receipt of a survivor's pension who has been missing for more than one year.

(3) Provisional pensions under paragraphs 1 and 2 shall be converted into definitive pensions when the death of the employee or spouse has been established officially or when that person has been declared missing by a final court decision.

CHAPTER VII
DETERMINATION OF THE AMOUNTS OF BENEFITS

Section 1
Assessment of entitlement

Article 25
Responsibility

(1) Entitlement to benefits under these Regulations shall be assessed by the Office.

(2) A detailed statement of the assessment shall be communicated to the employee or the persons entitled under him at the same time as the decision awarding the pension.

Article 26[1]
No double entitlement

Without prejudice to Articles 4 and 5, the following may not be paid concurrently out of the budget of the Organisation:

(i) retirement pensions under Article 10 and Article 12a;

(ii) a retirement pension and a non-flat-rate allowance for loss of employment.

Article 27
Basis of calculation

(1) Pensions provided for in these Regulations shall be calculated by reference to the salary defined in Article 3 and to the scales applicable to the country of the employee's last posting.

(2) However, if the employee settles subsequently

(i) in the country of which he is a national, or
(ii) in the country of which his spouse is a national, or
(iii) in the country where he has served at least five years for the Office,

he may opt for the scale applicable to that country.

This option shall apply to only one of the countries referred to in this paragraph, and shall be irrevocable except where paragraph 3 below is applicable.

(3) On the death of his spouse a former employee who settles in the country of which he is a national, or of which his deceased spouse was a national, may opt for the scale applicable in that country.

1 Amended by decision of the Administrative Council CA/D 2/15.

The same option shall be open to the surviving spouse of a former employee and to orphans who have lost both parents.

These options shall be irrevocable.

(4) Where a country opted for under the provisions of paragraphs 2 and 3 above is not or has not been a Member State of the Organisation, the reference scale shall be that applicable in the host country of the headquarters of the Organisation.

(5) The scales referred to in this Article shall be those in force on the first day of the month following that in which the employee's service terminated.

(6) Paragraph 2 above shall not apply to the benefits under Article 11. However, an employee who settles in his country of origin may have the severance grant provided for in Article 11(ii) calculated in accordance with the scale for that country, subject to paragraph 4 above.

Article 28
Re-assessment - Withdrawal

(1) Pensions may be re-assessed at any time in the event of error or omission of any kind.

(2) They shall be liable to modification or withdrawal if their award was contrary to the provisions of these Regulations.

Article 29
Forfeiture of rights - Requirement of evidence

(1) Persons eligible for benefits under this pension scheme shall furnish such supporting evidence as may be required by the Office and shall inform it of any facts which may affect their entitlement to benefits.

Should they fail to comply with these obligations, they may be deprived of the right to benefits under this scheme; save in exceptional circumstances, they shall refund any sums received to which they were not entitled.

(2) Where the surviving spouse, orphans or other dependants of a deceased employee fail to apply for their pension within one year from the date of his death, the benefits under these Regulations shall not be payable until the first day of the month following that in which they make their application.

(3) Where the former spouse referred to in Article 17 fails to apply for his pension within one year from the date of the death of the employee, his rights shall be wholly forfeited.

Section 2
Adjustment of benefits

Article 30

Whenever the salaries of staff serving at the Office are adjusted - whatever the basis for adjustment - an identical proportional adjustment shall, as of the same date, be applied to both current and deferred pensions, by reference to the grades and steps and salary scales taken into consideration in the calculation of these pensions.

Section 3
Payment of benefits

Article 31
Method of calculation

(1) Benefits under these Regulations shall be paid monthly in arrears.

(2) Benefits shall be paid by the Office.

(3) Benefits shall be paid in the currency used in their calculation in accordance with Article 27.

Article 32
Sums owed to the Organisation

Any sum owed to the Organisation by an employee on the date when a benefit is payable under these Regulations shall be deducted from the amount of his benefits or from the benefits payable to those entitled under him. Such deductions may be spread over a period.

Article 33
Right of subrogation

Where an employee's death is attributable to a third party, the award of the benefits provided for in these Regulations shall in principle be made subject to the beneficiary's assigning to the Office his claims against such third party, up to the amount of such benefits.

However, the Office may waive its right to take action pursuant to such subrogation against the third party concerned where special circumstances justify such a waiver.

CHAPTER VIII
FINANCING OF THE PENSION SCHEME

Article 34
Budgetary burden

(1) Benefits paid under this pension scheme shall be charged to the budget of the Organisation.

(2) The Member States of the Organisation jointly guarantee the payment of these benefits.

(3) In the event of a merger, reconstitution or other transformation or in the event of dissolution of the Organisation, the Administrative Council or any ad hoc body set up in one of the aforementioned cases shall take the necessary measures to ensure uninterrupted payment of pension scheme benefits until the cessation of entitlement of the last beneficiary.

(4) Should a Member or ex-Member State of the Organisation fail to comply with its obligations under this Article, the other States shall meet the cost thereof in proportion to their contribution to the budget of the Organisation as fixed annually from and after the said State's default.

Article 35
Employees' contributions - Costing the scheme

(1) The employees' contribution to this pension scheme shall be set by the President of the Office, on the basis of an actuarial study, up to the limit of the contribution level applicable to employees who took up their duties before 1 January 2009, determined in accordance with the Pension Scheme Regulations. It shall be deducted monthly from their salary.

(2) Contributions properly deducted shall not be recoverable. Contributions wrongly deducted shall confer no rights to pension benefits; they shall be refunded without interest at the request of the employee concerned or of those entitled under him.

(3) Should the President of the Office deem it necessary to have an evaluation of the cost of the present scheme made by one or more actuaries and should this show that the contribution that he has set pursuant to paragraph 1 above no longer corresponds to one third of the contribution necessary to finance the benefits payable under these Regulations, the President shall establish what changes, if any, are to be made to the rates of contribution.

CHAPTER IX
FINAL PROVISIONS

Article 36
Implementing Rules

(1) Implementing Rules for giving effect to these Regulations shall be adopted by the Administrative Council, acting on a proposal by the President of the Office submitted after consulting the General Consultative Committee[1].

(2) These Implementing Rules shall be brought to the attention of the staff.

1 Amended by decision of the Administrative Council CA/D 2/14.

New pension scheme regulations

Implementing rules

IMPLEMENTING RULES TO THE NEW PENSION SCHEME REGULATIONS

Rule 1
Definition

Save as otherwise provided in these Implementing Rules, the Articles hereinafter referred to are those of the New Pension Scheme Regulations of the European Patent Office, hereinafter referred to as "the Regulations".

Rule 1/1
Other personnel

The Organisation shall precisely define the categories of personnel referred to in Article 1, paragraph 3, to which the pension scheme does not apply.

Rule 2/1
Medical examination

Letters of appointment shall specify, where appropriate, that the period of deferred entitlement prescribed in Article 2 shall apply to the person concerned in the light of the results of the medical examination conducted prior to appointment.

If the employee concerned wishes to know the nature of the illness or disablement which justified the application of a deferment period, he can obtain the information from the Office's health service.

Rule 2/2
Maximum period of deferred entitlement

The five-year period specified in Article 2 shall be a maximum only.

Rule 2/3[1]
Definition of entitlement during the deferment period

(i) If the said employee's service terminates during the deferment period, the severance grant shall be paid to him and the years of service completed during the deferment period shall be taken into account.

(ii) In the event of death resulting from a cause which justified the deferment period in course, the employee or the persons entitled under him shall be entitled only to the refund of the amounts stated in Article 11, sub-paragraphs (i) and (iii).

1 Amended by decision of the Administrative Council CA/D 2/15.

Rule 4.1/1
Service counting for entitlement[1]

Service counting for entitlement shall consist of the following:

(i) any periods of service actually completed by an employee; also any periods corresponding to global compensatory payments in respect of leave not taken or in lieu of notice, if the employee, during such periods, has paid his personal contributions to the pension scheme, insofar as these latter periods do not extend beyond the age limit for retirement laid down in the Service Regulations and are not taken into account by a new employer for the purpose of a pension scheme;

(ii)[2] any periods of sick leave or incapacity in respect of which benefits have been paid; the person concerned shall be required to have paid his personal contributions to the pension scheme as calculated on the amounts so received, thus constituting such periods of reckonable service, without any reductions;

(iii) any periods of unpaid leave of not more than two months' duration, if during such periods the employee paid his personal contributions to the pension scheme and if such periods are not taken into account by a new employer for the purposes of a pension scheme;

(iv) any periods for which indemnity for loss of employment or assignment to reserve status has been granted, if the employee has paid his personal contributions to the pension scheme for such periods, insofar as such periods do not extend beyond the age limit for retirement laid down in the Service Regulations and are not taken into account by a new employer for the purposes of a pension scheme;

(v) any period of secondment referred to in Article 45 of the Service Regulations;

(vi) any period of military service referred to in Article 43 of the Service Regulations, if the employee has paid or gave an undertaking to pay their personal contributions to the pension scheme within six months of the end of such a period. In the event of an undertaking, any outstanding contributions shall be deducted from the benefits owing to those entitled under them.

(vii) any period of parental leave referred to in Article 44a of the Service Regulations, if the employee has paid their employee contributions to the pension scheme in respect of the period in question;

(viii) any period of family leave referred to in Article 44b of the Service Regulations, if the employee has paid their employee contributions to the pension scheme in respect of the period in question.

1 Amended by decision of the Administrative Council CA/D 8/22.
2 Amended by decision of the Administrative Council CA/D 2/15.

Rule 6/1
Fractions of a month

Any fraction of less than thirty days remaining after aggregating periods of service shall be treated as a whole month if it is equal to or more than fifteen days and disregarded if it is less than fifteen days.

Rule 6.3/1[1]
Part-time service and incapacity

Periods of incapacity or part-time work during which the employee paid reduced contributions to the pension scheme shall be credited as follows:

(i) if the result of reducing the salary defined in Article 10, paragraph 4, in proportion to the total contributions paid is higher than twice the salary for grade G1, step 4, they shall account for full reckonable years;

(ii) if the result of reducing the salary defined in Article 10, paragraph 4, in proportion to the total contributions paid is equal to or lower than twice the salary for grade G1, step 4, they shall be credited in proportion to the contributions paid.

Rule 7/1
Actual service for the purposes of Article 4

For the purposes of Article 4, years served at the Office shall be years in respect of which the employee's contributions to the pension scheme have been paid in accordance with Article 5, paragraph 1, and Article 35, paragraph 1.

Rule 8/1
Method of reducing pension - Early pension

(i) A retirement pension paid before age 60 shall be calculated as follows:

- If the pension that would be due at age 60 is lower than the minimum rate prescribed in Article 10, paragraph 3, it shall be brought up to that minimum rate and the reduction provided for in Article 8, paragraph 4, shall then be applied to it.
- If the pension that would be due at age 60 is higher than the aforesaid minimum rate, the reduction shall be applied to it even if the result is lower than that minimum.

(ii) The reductions provided for in Article 8, paragraph 4, shall be applied by reference to whole years, no account being taken of months.

(iii) Family allowances shall be paid and calculated in accordance with the provisions of Rule 22/1(ii).

1 Amended by decision of the Administrative Council CA/D 2/15.

(iv) Under the conditions laid down in Article 8 and in this Rule, an early pension may be requested at any time between the ages of 50 and 60, once the employee's service has terminated.

Rule 12.1/1
Inward transfer of previously acquired rights

(i) Periods of membership of previous pension schemes

(a) Pursuant to Article 12, paragraph 1, years of reckonable service shall be credited in accordance with these Rules in respect of periods of membership of one or more pension schemes preceding entry into the service of the Office.
(b) Any amounts transferred in respect of periods of membership after entry into the service shall be paid back to the employee.
(c) An amount shall be credited under this Article only if it is certified by the pension scheme concerned as being the actuarial equivalent of retirement pension rights or as representing a capital payment in respect of rights to a pension or of social security entitlements (excluding compensation for dismissal or a severance grant) and must be equivalent to the whole of the amounts paid to the person concerned by that pension scheme.

(ii) Transfer date

The transfer date is hereby defined as the value date on which the Office's account is credited.

(iii) Amounts credited

For purposes of calculating the years of reckonable service to be credited pursuant to Article 12, paragraph 1, the amounts specified in paragraph (i)(c) above shall be taken into account as calculated and paid under the previous pension scheme, in terms of both capital and interest, if any. They shall be considered as calculated on the transfer date. Any necessary conversion into the currency of the salary paid by the Office on the transfer date shall be effected at the exchange rate in force on that date.

Where such amounts were actually paid to the person concerned before the date of entry into the service, for purposes of calculating the years of reckonable service they shall be increased by compound interest for each full month from the date of payment to the person concerned up to the transfer date. The interest rate to be applied shall be the rate taken into account for the actuarial studies. Where that rate is expressed by reference to a price index, the value of that price index on the first working day of each month shall be the reference index for the month in question.

(iv) Calculation of reckonable years of service

The number of reckonable years of service to be taken into account under Article 12, paragraph 1, shall be calculated by first dividing the transferred amount by the coefficient corresponding to the age of the person concerned

on the transfer date. The figure obtained shall then be divided by 12 x 2% of the salary referred to in Article 10, paragraph 1, on the transfer date to obtain the number of reckonable years of service credited. The above-mentioned rate of 2% shall be the accumulation rate defined in Article 10.

(v) Maximum reckonable years of service

Taking such reckonable years of service into account must not have the effect of raising the total pension above the maximum prescribed by Article 10, paragraph 2.

(vi) Time limit for application

Application for the amounts referred to in paragraph (iii) above to be credited to the Office must be made in writing

(a) within six months from the date of entry into the service in the case of employees exempted from the probationary period or no later than six months after notification of confirmation of appointment after the probationary period. The actual transfer cannot, however, be made until appointment has been confirmed.

(b)[1] as a transitional measure, within a period of six months from the date on which the possibility of such a transfer was made available to employees by the pension scheme concerned.

The application for crediting may be revoked by the person concerned at any time within the time limits prescribed in paragraph (vii) below, but before the payment provided for in paragraph (iii) has been made.

(vii) Time limits for payment

Payment of the amounts referred to in paragraph (iii) above must be made:

- within three months after the expiry of the time limit prescribed in paragraph (vi) above, if the person concerned had actually received such an amount from the pension scheme concerned;
- on payment of such amounts by the pension scheme concerned in other cases.

Payment to the Office shall be made in the currency - or its equivalent at the exchange rate in force on the date of actual payment to the Office - in which the amounts referred to in paragraph (iii) actually have been, or will be, paid by the previous pension scheme.

(viii) Transfer to a subsequent pension scheme

Pursuant to Articles 11(iii) and 12, paragraph 2, the amounts paid to the Office under this Article and subsequently refunded, wholly or in part, to an employee who has not completed at least 10 years' actual service within the meaning of Articles 4 and 7 shall be increased from the time of

1 Amended by decision of the Administrative Council CA/D 2/18.

payment to the Office by compound interest at 4% per annum payable by the Organisation.

Rule 12.2/1
Transfer of pension rights to an outside scheme

(i) Time limit for application

(a) Application for transfer of pension rights under Article 12, paragraph 2, must be made by the staff member to the Office within six months after his definitive appointment by the new government department, organisation or firm referred to in Article 12, paragraph 2.

(b) If the Organisation is unable to conclude with the new government department, organisation or firm referred to in Article 12, paragraph 2, an agreement for such transfer which it considers satisfactory, it shall confine itself to making immediate payment of the amounts referred to in Article 11, or to immediate or deferred payment of a retirement pension.

(ii) Conditions governing transfer

The amounts referred to in Article 12, paragraph 2, may be transferred only to the statutory or contractual pension scheme of the government department, organisation or firm referred to in Article 12, paragraph 2.

(iii) Calculation of amounts to be transferred

The actuarial equivalent of the retirement pension rights referred to in Article 12, paragraph 2, shall be calculated on the basis of the Table annexed hereto, the annual pension acquired in the Organisation being multiplied by the coefficient corresponding to the age of the person concerned.

(iv) The age coefficients referred to in Rule 12.1/1, paragraph (iv), first sentence, and paragraph (iii) above shall be established by the President of the Office on the basis of an actuarial study.

Annex to Rule 12.2/1(iii)[1]

Age	Coefficient	Age	Coefficient
20	5,902	43	11,514
21	6,076	44	11,850
22	6,255	45	12,194
23	6,440	46	12,549
24	6,630	47	12,913
25	6,826	48	13,287
26	7,033	49	13,672
27	7,241	50	14,067
28	7,455	51	14,474
29	7,676	52	14,892
30	7,903	53	15,323
31	8,137	54	15,766
32	8,378	55	16,223
33	8,625	56	16,693
34	8,874	57	17,179
35	9,136	58	17,681
36	9,405	59	18,200
37	9,682	60	18,771
38	9,967	61	18,582
39	10,260	62	18,149
40	10,561	63	17,707
41	10,870	64	17,257
42	11,187	65	16,799

Rule 14/1
Employee dying during leave on personal grounds

(i) When an employee dies during a period of leave in respect of which the personal contribution to the pension scheme was not payable, the surviving spouse shall be entitled to the survivor's pension under Article 14, paragraph 1(ii), the minimum and maximum amounts of such pension being in accordance with paragraphs 3 and 4 of the same Article.

In addition, any orphans shall be entitled to the benefits specified in Articles 19 and 22.

1 Modified by decision of the President, see Circular No. 390.

(ii) However, where the deceased employee, at the time of taking unpaid leave, had not completed a sufficient number of years' service to entitle him to a retirement pension, the amounts provided for in Article 11 shall be paid to his estate; such amounts shall be calculated on the basis of rights acquired and salary at the date of going on leave, without any subsequent adjustment or interest.

Rule 17/1
Rights of a former spouse (divorced spouse)

The ceiling of the survivor's pension, as provided for in Article 17(1), shall be subject to the same adjustments as those provided for in Article 30.

Rule 19.5/1
Pension of an orphan dependent on a widowed employee

(i) The orphan's pension mentioned in this Article (children or other dependants of an employee who is the widower, or widow, of a spouse not an employee of the Office) shall be due only if the employee became widowed while in service.

(ii) If the employee remarries or leaves the Office, the orphan's pension shall cease to be paid.

(iii) Since it is the situation at the time of death of the spouse which must be taken into consideration, the following are not entitled to the orphan's pension:

- children born or adopted after the death of the spouse (except for children born not more than 300 days thereafter);
- the "other dependants" qualifying as such after the death of the spouse.

Rule 21.1/1
Definition of the total pension for apportionment

(i) The total pension referred to in Article 21(1) shall be calculated as if all the beneficiaries of the deceased employee formed part of a single group.

(ii) This total pension shall comprise:

- a survivor's pension as would be payable to a surviving spouse of the deceased employee in accordance with Article 14 only, the same rule applying in case of conflict between a surviving spouse and former spouse;
- orphan's pensions calculated as if all orphans and other dependants of the deceased employee belonged to the group entitled to the survivor's pension mentioned above. In accordance with the first subparagraph of Article 19(2), only one minimum orphan's pension (50 per cent of G1, step 4[1]) shall be taken into account in this calculation;

1 Amended by decision of the Administrative Council CA/D 10/14.

- family allowances, also calculated as if such children and other dependants all belonged to the group of the beneficiary of the aforementioned survivor's pension. The ceiling for such allowances shall be as laid down in Article 23, before apportionment of the total pension.

Rule 21.1/2
Apportionment of the total pension

(i) The total pension so calculated shall be apportioned among:

- where appropriate, the spouse and former spouse;
- orphans and other dependants

in proportion to the amounts which would have been payable directly to each group of beneficiaries considered separately (after application of Articles 15 and 17).

(ii) Within a group consisting of a surviving spouse or former spouse and orphans and other dependants, the share going to that group shall be apportioned, for the purpose of calculating the individual entitlement of each member as mentioned above, in proportion to the survivor's pension and the family allowances on the one hand and the orphan's pensions on the other which determined the share payable to that group.

(iii) If the amounts so apportioned exceed the pensions and the family allowances to which the beneficiaries would have been entitled if they had been considered separately, any such excess amounts shall not be payable.

(iv) The minimum amounts laid down for survivors' and orphans' pensions and for household allowances shall no longer apply to the amounts actually payable.

Rule 22/1
Method of calculating family allowances

(i) Household allowance

The household allowance to which the pension recipient is entitled shall be calculated on the basis of his pension, but shall not be less than the minimum laid down in the scales in force at the Office, save where the allowance is reduced on the basis of the income of the spouse.

(ii) Early pension

The household allowance to which the recipient of an early pension is entitled shall be calculated on the basis of the reduced pension, subject to the minimum prescribed by the Service Regulations and the implementing rules thereto; the other family allowances of fixed amount shall be granted without any reduction.

Rule 22/2[1]
Education allowance

(i) The education allowance shall be granted for children dependent on a former employee who is in receipt of a retirement pension, or dependent on their spouse, where such spouse is in receipt of a survivor's pension, by applying to the dependent children the same criteria regarding education and expenditure as would apply if the former employee were still serving.

(ii) In the event of the death of a serving employee or employee actually in receipt of a retirement pension, without any survivor's pension being awarded to a spouse, or in the event of the death of the recipient of a survivor's pension, any education allowance which was being paid at the time of the death shall continue to be paid, unchanged in amount, until the end of the current academic year.

Rule 22/3[2]
Young child allowance

(i) The young child allowance shall be granted for children dependent on a former employee who is in receipt of a retirement pension, or dependent on their spouse, where such spouse is in receipt of a survivor's pension, by applying to the dependent children the same criteria as would apply if the former employee were still serving.

(ii) In the event of the death of an employee or former employee actually in receipt of a retirement pension, without any survivor's pension being awarded to a spouse, or in the event of the death of the recipient of a survivor's pension, any young child allowance which was being paid at the time of the death shall continue to be paid, unchanged in amount, for a further three full calendar months following the death or until the entitlement on which the allowance was based ceases to be recognised, whichever is the earlier.

Rule 23/1
Ceiling for family allowances

(i) The same adjustments as are applicable to salaries shall be applied to the family allowances referred to in Article 23.

(ii) The ceiling prescribed in Article 23 shall apply only where survivor's and orphan's pensions and family allowances are due simultaneously.

(iii) Any reduction resulting from application of the aforesaid ceiling shall be calculated on the total of the benefits referred to in paragraph (ii); the same shall apply in the case of the existence of a former spouse (divorced spouse) or of orphans of different marriages.

1 Amended by decision of the Administrative Council CA/D 4/21.
2 Amended by decision of the Administrative Council CA/D 4/21.

(iv) All the calculations referred to in the preceding paragraphs shall be made after deduction of any family allowances received from another source.

Rule 24/1
Scope

For the purposes of Article 24, the term "employee" shall also mean the beneficiary of an invalidity allowance.

Rule 24/2
Forfeiture of rights

Where an employee is missing, the time limits laid down by Article 29, paragraphs 2 and 3, shall commence to run from the date of the court decision declaring him to be missing, referred to in Article 24, paragraph 3.

Rule 25/1
Pension statement

On the termination of service of an employee, the Office shall draw up a statement of his pension rights.

Rule 26/1
Double entitlement to retirement pensions[1]

(i)[2] Double entitlement to retirement pensions granted under Articles 10 and 13 shall not be allowed.

(ii) Double entitlement to a survivor's pension and to remuneration or a retirement pension paid by the Office shall be permitted.

(iii) Double entitlement to a retirement pension and to an indemnity for loss of employment paid month by month on the basis of the salary being received by the employee at the time of leaving shall be prohibited.

(iv) Double entitlement to a retirement pension and to an allowance for assignment to reserve status shall be prohibited.

1 Amended by decision of the Administrative Council CA/D 2/15.
2 Amended by decision of the Administrative Council CA/D 2/15.

Rule 26/2
Double entitlement to survivor's and orphan's pensions

When they are due to the same cause, the annuities or pensions granted in the event of the death of an employee to the spouse, orphans or dependent persons under a scheme distinct from the pension scheme shall be deducted, if they are financed wholly or in part by the Organisation, from the amount of the relevant pensions due and calculated under the Regulations.

Rule 27/1
Alteration due to the exercise of an option

Where, in application of Article 27, benefits under the pension scheme are to be calculated on the basis for a scale other than that which was in force at the time when the right to the benefits arose, then the amount of such benefits must, for the purpose of their payment as from the exercise of the option concerned, be recalculated on the basis of the said scale.

Rule 29/1
Statement by employee or persons entitled under him

Subject to the provisions of Rule 24/2, the recipient of any benefit under the Regulations shall be required to inform the Office immediately of any change in his address, or in his civil status or the composition of his family in so far as such latter change alters the number of persons entitled under him; such statement shall in any case be required to be renewed during the month of December each year. For this purpose, the Office shall send a form to the person concerned each year.

Rules 28/1 and 29/2
Refund of amounts unduly received

All amounts unduly received shall be refunded pursuant to Articles 28 and 29, in the manner prescribed in the rules and regulations applicable to staff serving at the Office.

Rule 29/3
Provision of information to persons eligible for benefits

It is the responsibility of persons entitled under an employee to notify their existence to the Organisation if they deem it liable to pay them benefits under the pension scheme.

The Organisation shall then inform the beneficiaries concerned of the benefits which they may claim under the Regulations.

Rule 30/1
Notification of adjustments

Adjustments to pensions currently being paid shall be notified in writing, at least once a year, to the persons entitled to such pensions.

Rule 31/1
Date of payment

In application of Article 31, paragraph 1, pensions and family allowances shall be paid in arrears on the last working day but two of the month to which they relate.

Rule 32/1
Buying back rights

Any amounts remaining due on the death, recognition of invalidity or termination of service of an employee in respect of rights bought back under Rule 4.1/1 and Article 5 shall constitute a debt owed to the Organisation by the employee or the persons entitled under him.

Payment to the Organisation of any amounts thus owing shall be made pursuant to the special condition agreed to by the employee at the time of his application to buy back pension rights; this condition shall give the Organisation a preferential right to deduct such amounts from the capital sums due at the time of death or recognition of invalidity, or of termination of service.

Rule 35/1[1]
Sickness and incapacity

The employee's contribution to the pension scheme shall be paid in full during sick leave.

During periods of incapacity, this contribution shall be calculated in proportion to the actual salary drawn.

At the employee’s request, the contribution shall be calculated on the basic salary which he would have received for normal full-time work.

Rule 35/2
Leave on personal grounds

An employee may not pay pension contributions during periods of leave on personal grounds of more than two months' duration, and during such periods the employee shall not acquire any pension rights.

On the other hand, his surviving spouse and orphans shall be entitled to receive benefits under the conditions set out in Rule 14/1.

1 Amended by decision of the Administrative Council CA/D 2/15.

Healthcare insurance scheme

IMPLEMENTING RULES FOR ARTICLES 83a, 84 AND 84a OF THE SERVICES REGULATIONS[1]

I.[2] Healthcare insurance (Article 83a of the Service Regulations)

A. Object of the insurance

The healthcare insurance covers reimbursement, within the limits set out under section F below, of expenditure incurred by insured persons in respect of medical treatment, prescribed by medically qualified persons, as a result of illness, accident, pregnancy and confinement, including preventive measures and examinations.

B. Definitions

- **Monthly salary:** means monthly basic salary;
- **Accident:** means injury to the human body due to the action of an external agency;
- **Illness:** means a deterioration in health established by a medically qualified person;
- **Medically qualified person:** means a person legally authorised to perform the art of healing in the country where the treatment is received;
- **Pharmaceutical product / medicine:** a product that is prescribed by either a medical doctor or another medically qualified person, contains active pharmacological components and has a scientifically proven therapeutic effect, or a product that is prescribed within the framework of generally accepted medical treatment to fight illness or after an accident, excluding experimental treatments;
- **Outpatient treatment / outpatient surgery / day care:** treatment given on an outpatient basis, where the date of admission is the same as the date of discharge or there is no overnight stay;
- **Inpatient treatment / hospitalisation:** treatment given on an inpatient basis, where the date of admission differs from the date of discharge and there is an overnight stay;
- **Insurance year:** corresponds to a calendar year;
- **Third-party administrator:** the organisation or company which processes the insurance claims and is in charge of the day-to-day administration of the healthcare insurance scheme.

C. Commencement and cessation of cover

Cover begins automatically on the date of entry into service. There is no waiting period.

1 Amended by decision of the Administrative Council CA/D 2/18.
2 Amended by decision of the Administrative Council CA/D 3/16.

Cover ceases on the dates on which the insured persons cease to fulfil the conditions laid down in this respect in the Service Regulations.

This insurance meets expenditure only in respect of treatment given as from the date on which cover takes effect and up to and including the date on which cover ceases.

D. Freedom of choice

There is complete freedom as to the choice of doctor, chemist, hospital and other competent persons or institutions, worldwide. Insured persons are not obliged to consult a general practitioner in each case.

E. Medical secrecy

The third-party administrator and the medical adviser of the third-party administrator must maintain the strictest secrecy regarding any information they obtain in the performance of their duties.

An insured person can remit documents concerning his state of health directly, under sealed cover, to the medical adviser of the third-party administrator.

F. Extent of cover and amount of reimbursement

(a) The amount of expenses incurred in respect of medical treatment will be taken into consideration only insofar as it does not exceed, in respect of the medical treatment in question, any price limits imposed under any national provision issued by a competent official body. In applying this rule, individual agreements derogating from any such limits will be disregarded.

(b) Medical expenses will be reimbursed subject to the limits set out in the following categories of expenses. The President of the Office may lay down concrete reimbursement conditions for specific medical products and treatments in the form of a guide to cover. The guide to cover will be periodically updated to include reimbursement conditions for new products and treatments, on the basis of a medical opinion provided by the medical adviser of the third-party administrator. Changes to the guide to cover will be submitted for consultation to the General Consultative Committee.

1. Fees

1.1 General practitioner and specialist:

100% reimbursement up to a ceiling of EUR 2 249.69 per person per insurance year. This ceiling does not apply to surgeons' fees for operations involving hospitalisation.

1.2 Dentist:

80% reimbursement of the costs of treatment by a dentist (excluding the cost of all prostheses and dento-facial appliances) up to a ceiling of EUR 562.43

per person per insurance year, and 80% reimbursement of the costs of half-yearly check-ups and scaling.

1.3 Other medical expenses, for example for the payment of home nurses:

80% reimbursement up to a ceiling of EUR 843.64 per person per insurance year.

2. Medicines

80% reimbursement for medicines insofar as they are prescribed by a doctor.

3. Stay in a medical establishment

3.1 Costs of stay and treatment lasting more than 24 consecutive hours in an establishment which is under medical direction and supervision:

100% reimbursement, without any time limit, up to a ceiling corresponding to the amount charged by the establishment concerned for a stay in a room with two beds.

3.2 All other medical expenses:

100% reimbursement.

3.3 Cost of transport to and from a medical establishment only in the case of a stay in that establishment and if transport is medically necessary:

100% reimbursement.

3.4 Medical fees:

100% reimbursement.

4. Special treatments and special examinations

4.1 Confinement other than in a hospital or clinic:

100% reimbursement of the actual cost.

4.2 Laboratory tests:

80% reimbursement.

4.3 Histological tests:

100% reimbursement.

4.4 Radiology, X-ray treatments, chemotherapy:

100% reimbursement.

4.5 Haemodialysis:

100% reimbursement.

4.6 Physiotherapy and kinesitherapy:

100% reimbursement up to a ceiling of EUR 562.43 per person per insurance year.

4.7 Psychotherapy:

100% reimbursement up to a ceiling of EUR 1 406.06 per person per insurance year.

4.8 Cures:

(a) In case of absolute medical necessity and after advance agreement has been given by the medical practitioner appointed by the President of the Office in accordance with Article 89(1) of the Service Regulations, medical costs as well as costs for full board and lodging will be reimbursed under the same conditions as under point 3.1 above with the exception of the reference to a room with two beds.

(b) In all other cases, medical costs may be reimbursed only once every five years and for a maximum period of 21 days under the following conditions:

- medical costs: 100%;
- costs for board and lodging: a flat rate of 50% of the daily subsistence allowance (Group II) in the relevant country, as set out in Annex V of the Service Regulations, at the rate applicable on 1 July of the previous year. The rate increases to 80% for two or more persons of the same family going on cure together;
- notwithstanding Article 83a(6) of the Service Regulations, any additional expenses cannot be claimed under section H below;

(c) Travelling expenses are never reimbursed.

4.9 Cancer screening:

Annual preventive examination of breasts and cervix of uterus:

100% reimbursement.

4.10 Vaccinations:

All vaccinations except vaccinations required by the authorities of a country to which the insured person wishes to travel:

80% reimbursement.

4.11 Combinations of outpatient medical treatments invoiced according to the medical diagnosis:

97% reimbursement.

5. Prostheses and orthopaedic appliances on medical prescription

5.1 Dental prostheses and orthopaedic dento-facial appliances:

80% reimbursement up to a ceiling of EUR 1 124.85 per person per period of two insurance years, the first period ending on 31 December 2018.

5.2 Spectacles and contact lenses:

5.2.1 Spectacle lenses:

80% reimbursement.

5.2.2 Contact lenses:

80% reimbursement up to a ceiling equal to the cost of the corresponding spectacle lenses.

5.2.3 Frames:

Flat-rate payment of EUR 42.19 for a maximum of one set of frames per person per period of two insurance years.

5.3 Hearing aids:

80% reimbursement up to a ceiling of EUR 281.22 per appliance.

5.4 Pacemakers:

100% reimbursement.

5.5 Orthopaedic appliances and prostheses other than those referred to in point 5.1 such as callipers, walking sticks, belts, bandages, shoes, corsets:

80% reimbursement up to a ceiling of EUR 562.43 per person per insurance year.

6. Funeral expenses

Flat-rate payment of EUR 1 687.27 per person.

G. Adjustment of ceilings

The reimbursement ceilings mentioned in section F above may be reviewed periodically on the basis of a proposal drawn up by the President of the Office after consulting the General Consultative Committee. The proposal will be based on a study on changes in medical costs in the EPO member states and will be submitted to the Administrative Council for approval.

H. Additional reimbursement under Article 83a(6) of the Service Regulations

Where, during a period of twelve consecutive months, the total medical costs referred to in section F above incurred by an insured employee, insured members of his family, and other insured dependants, is such that, by virtue of the 20% excess on certain expenses and of the ceilings imposed, the insured employee still has to bear an amount totalling more than 20% of his average monthly salary over the twelve months in question, he is entitled to an additional reimbursement amounting to the difference between the overall total amount of such excesses and the amounts exceeding the ceilings on the one hand and 20% of the said average monthly salary on the other hand.

The preceding paragraph also applies to insured persons in receipt of a pension, in which case the term "salary" means "pension". For former employees who have continued to be insured under Article 83a(2)(b) and (c) of the Service Regulations, the term "salary" is understood to mean the last basic salary before leaving service. For employees deemed to be incapable of work according to Article 62b of the Service Regulations, the term "salary" means the sum of the proportions of his basic salary referred to in Article 62b(3)(a) and (b) of the Service Regulations.

I. Settlement of claims for reimbursement

Reimbursement of expenses incurred is effected by cheque or bank transfer to the insured employee, former employee or survivor, normally within 15 days and no later than 15 working days following the date of receipt by the third-party administrator of the claim and supporting documents, such as originals of bills and medical prescriptions stating the diagnosis.

In certain cases, direct settlement with the medical establishments referred to in section F above may be considered. Any reimbursement from another source will be deducted from the amount payable under this insurance scheme to the extent that the latter payment would bring the total reimbursement for the medical treatment in question to more than 100%.

[1]Costs incurred in a currency other than EUR will be converted at the average exchange rate in force on the day reimbursement is processed.

All claims for reimbursement and requests for the application of Article 83a(6) of the Service Regulations must be submitted within three years of the end of the year in which the invoice was issued.

J. Disputes

Objections to a rejection of reimbursement of medical expenses should be raised in writing directly with the third-party administrator within three months of the notification of said rejection. The rejection must be final and confirmed by the third-party administrator before the insured person may, within three months of notification of said final rejection, refer the case to the Office for decision, based on a medical opinion under Article 89 of the Service Regulations.

K. Spouses in gainful employment[2]

Spouses of employees or former employees who are in gainful employment outside the Office are entitled to cover under the healthcare insurance scheme of the Office under the following conditions:

(a)[3,4]If the spouse of an employee or former employee entitled to insurance under Article 83a of the Service Regulations is engaged in gainful

1 Amended by decision of the Administrative Council CA/D 11/22.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 Amended by decision of the Administrative Council CA/D 11/22.
4 Modified by decision of the Administrative Council CA/D 2/18.

employment outside the Office and is exempted by national law from affiliation to a compulsory scheme of healthcare insurance and has no other primary healthcare insurance cover, the employee or former employee will pay a monthly contribution to the scheme for the spouse calculated with reference to the market prices for low premiums offered by reputable private healthcare insurers for the minimal cover required by law in the spouse's country of employment. The President of the Office will lay down the criteria for the reference premiums used to define this contribution.

(b)[1,2] An employee or former employee entitled to insurance under Article 83a of the Service Regulations whose spouse is in gainful employment outside the Office and is affiliated to a collective basic medical insurance concluded by the Office under the Dutch Health Care Insurance Act ("Zorgverzekeringswet") will pay for the spouse a contribution calculated with reference to the market prices for low premiums. The President of the Office will lay down the criteria for the reference premiums used to define this contribution."

(c)[3] By way of exception to (a) and (b) above, the President of the Office will define a reduced contribution applicable to spouses in gainful employment with a gross income of less than the basic salary at grade G1, step 4 of the scale applicable to the employee or former employee. The gross income is considered to be the income before deduction of contributions to compulsory social security schemes and national income tax.

(d) The contribution provided for in Article 83a(1)(b) of the Service Regulations does not apply to any of the cases defined in this section.

L. Complementary cover for family members affiliated to another healthcare insurance

(a) Spouses who are in gainful employment outside the Office and who are entitled to reimbursement of expenses under any other legal, statutory or private primary healthcare insurance scheme must in the first instance claim for benefit under the other insurance scheme. If reimbursement under the other insurance scheme does not cover 100% of the expenditure incurred, complementary reimbursement may be claimed under the healthcare insurance scheme of the Office.

(b) Family members affiliated to a collective basic medical insurance scheme concluded by the Office under the Dutch Health Care Insurance Act ("Zorgverzekeringswet") must in the first instance claim reimbursement of medical expenses under that insurance scheme. Complementary reimbursement may be claimed under the healthcare insurance scheme of the Office.

1 Amended by decision of the Administrative Council CA/D 11/22.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 Modified by decision of the Administrative Council CA/D 2/18.

(c) If the primary healthcare insurance scheme of the family member restricts the choice of medical provider (e.g. doctor, hospital, medical services required), he may use the healthcare insurance scheme of the Office as primary insurance if he does so for reasons of access to and/or the quality of the medical care.

M. Obligations with regard to spouses in gainful employment

(a)[1] An employee or former employee must provide, in the first half of the year, proof of the employment situation of, and income received by, his spouse for the previous fiscal or calendar year, in order for his spouse to remain in the healthcare insurance scheme of the Office.

(b)[2] An employee or former employee must report any changes in the employment circumstances of his spouse which may give rise to changes in entitlement under this scheme.

(c)[3] If an employee or former employee does not fulfil the conditions laid down in paragraphs (a) and (b), the President of the Office may decide to suspend the spouse's insurance.

II. Death insurance (Article 84 and 84a of the Service Regulations)[4]

A.[5] Restrictions

The cover provided for in Articles 84 and 84a of the Service Regulations shall be subject to the following restrictions:

(a) In the event of suicide, the lump sum referred to in Articles 84 and 84a shall be payable only if the suicide takes place at least two years after the date on which the employee entered the service. However, this restriction shall not apply if the employee commits suicide while the balance of his mind is disturbed; the burden of proof in this respect shall lie with the beneficiaries.

(b) In the event of war, cover shall continue, except in the case of insured persons called up for military service.

B.[6] Contribution rates

The President of the Office shall define the provisional contribution rates to be applied for each three-year period starting from 1 January 2008.

C.[7] Contribution rate adjustment and revision

At the end of every three-year period of insurance starting from 1 January 2005, a review shall be conducted. The President of the Office shall make

1 Modified by decision of the Administrative Council CA/D 2/18.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 Modified by decision of the Administrative Council CA/D 2/18.
4 Amended by decision of the Administrative Council CA/D 2/18.
5 Amended by decision of the Administrative Council CA/D 2/18.
6 Amended by decision of the Administrative Council CA/D 2/15.
7 Amended by decision of the Administrative Council CA/D 32/07.

any necessary adjustments for previous periods as a result of the review.

In the event of a significant deviation between expected and actual operating figures during the course of a three-year period, the President of the Office may conduct an interim review and, where appropriate, adjust the contribution rates before the end of the period to obviate the need to recover or reimburse a single large amount once the period is over.

Long-term care insurance

IMPLEMENTING RULES TO ARTICLE 83b OF THE SERVICE REGULATIONS[1]

I. Insured persons

(1) The following persons shall be insured on a compulsory basis:

(a) employees;
(b) former employees in receipt of an outright retirement pension;
(c) dependent children of insured persons under (a) or (b);
(d) for a maximum period of six months, children referred to under (c) who cease to be treated as dependants within the meaning of Article 69 and for whom insured persons under (a) or (b) can provide evidence that said children are not in gainful employment. This sixmonth period shall commence on the date of the loss of status as a dependent child within the meaning of Article 69. This cover shall cease at the end of the six-month period, or when the child reaches twenty-six years of age, whichever is the earlier;
(e) dependent children of insured persons under (a) or (b) in receipt of an orphan's pension following the death of the insured person under (a) or (b).

(2) The following persons may be insured on a voluntary basis, provided the insured person under (1)(a) or (b) or an insured person under (3)(d) does not take an irrevocable decision to the contrary, and provided they are not themselves already insured under (1):

(a) the spouse of an insured person under (1)(a) or (b) or of an insured person under (3)(d);
(b) the former spouse of an insured person under (1)(a) or (b) or of an insured person under (3) (d) in respect of whom the aforementioned insured person is legally obliged to pay personal maintenance;
(c) other dependants, within the meaning of Article 70, of the insured person under (1)(a) or (b) or of the insured person under (3)(d).

Subject to the provisions of paragraph (3), cover for those persons insured on a voluntary basis shall cease at the same time as that of the insured person at whose decision they are covered.

(3) The following persons may be insured on a voluntary basis, provided they do not take a personal, irrevocable decision to the contrary, and provided they are not themselves already insured under (1):

(a) recipients of a survivor's pension already insured under (2)(a) at the time of death of the insured person at whose decision they were covered;
(b) recipients of a survivor's pension already insured under (2)(b) at the time of death of the insured person at whose decision they were covered;

1 Amended by decision of the Administrative Council CA/D 22/22.

(c) dependent persons within the meaning of Article 70 in receipt of an orphan's pension and already insured under (2)(c) at the time of death of the insured person at whose decision they were covered;

(d) persons entitled to a deferred retirement pension who resign after the age of 50 or have a total of at least 25 years of reckonable service within the meaning of the Pension Scheme Regulations applicable to them.

II. Contributions by the Office and by the insured persons

(4) The following contributions shall be paid:

(a) a contribution by the Office proportional to the basis formed by the sum of the basic salaries and basic pensions paid to the insured persons in I.(1)(a) and (b), plus 6% for those insured persons who have opted for voluntary insurance of their spouse within the meaning of (2)(a), and the sum of the survivor's pensions paid to insured persons under (3)(a). For the purposes of the calculation of the aforementioned basis, basic salaries shall be taken to mean the full-time salaries of the relevant employees in active employment, and basic pensions to mean the actual pensions paid, although not less than the pensions that would be paid if the recipients had accumulated 25 years of reckonable service within the meaning of the Pension Scheme Regulations applicable to them. The rate of this contribution shall be equal to two-thirds of the reference rate defined in (6);

(b) a contribution by the insured persons under I.(1)(a) and (b) proportional to the part of the basis defined above which corresponds to the insured person concerned. The rate of this contribution shall be equal to one-third of the reference rate defined in (6). However, during periods in which a person insured on a compulsory basis under I.(1)(a) is not in active employment, this rate shall be equal to the reference rate defined in (6);

(c) a contribution by the insured persons under I.(3)(d) proportional to the basic retirement pension corresponding to 25 years of reckonable service, without application of the coefficients of reduction for early pensions provided for in Article 8(4) of the Pension Scheme Regulations applicable to them. The rate of this contribution shall be equal to the reference rate defined in (6);

(d) a supplementary contribution by the insured persons under I.(1)(a) or (b) and the insured persons under I.(3)(d), on behalf of the persons insured on a voluntary basis under I.(2) and which:

(i) for insured persons under I.(2)(a) having a gross income from employment greater than the basic salary for Grade G4, step 4, of the scale applicable to the insured person paying the contribution, is proportional to the amount by which this income exceeds the said basic salary;

(ii) for insured persons under I.(2)(b) or (c), is proportional to the basic salary for Grade G1, step 4, of the scale applicable to the insured person paying the contribution. The rate of this contribution shall be equal to the reference rate defined in (6).

(e) a contribution by the insured persons under I.(3)(a) proportional to the survivor's pension. The rate of this contribution shall be equal to one-third of the reference rate defined in (6);

(f) a supplementary contribution by the insured persons under I.(3)(a) having a gross income from employment greater than the basic salary for Grade G4, step 4, on the scale applicable to the insured person paying the contribution, which is proportional to the amount by which this income exceeds the said basic salary. The rate of this contribution shall be equal to the reference rate defined in (6);

(g) a contribution by the insured persons under I.(3)(b) and (c) equal to the contribution defined under II.(4)(d)(i) and (ii) respectively.

(5) For employees in job groups 3 to 6 entering the service of the Office after the age of 55, the contributions to be made by the Office under (4)(a) and by the employee under (4)(b) shall be reduced to one-third of the contributions defined above.

(6)[1] The reference rate shall be determined by the Administrative Council on a proposal from the President of the Office made on the basis of an actuarial study carried out by independent experts and fixed at 1.8%.

If the Administrative Council considers it necessary to have the cost of the social security scheme examined by one or more actuaries, and such an examination reveals that the above-mentioned reference rate no longer guarantees the structural equilibrium of the social-security scheme, the Administrative Council shall decide what changes, if any, are to be made to the contributions.

(6) (a) The portion of remuneration owed on termination of service as a result of compulsory participation in the salary savings plan, where applicable, shall be reduced by the amount of the long-term care insurance contribution, a third of which shall be borne by the employee.

III. Management of the scheme

(7) The management of the scheme shall be entrusted to an external manager selected in accordance with the procedure for placing contracts provided for in the Financial Regulations.

(8) -

1 Amended by decision of the Administrative Council CA/D 14/23.

IV. Entitlement to benefits

(9) Entitlement to long-term care benefits shall be decided by the President of the Office, on a proposal from the external manager of the scheme. The decision shall identify the degree of reliance on long-term care of the insured person concerned.

V. Level of benefits

(10) Depending on the degree of reliance on long-term care identified, the monthly benefit paid shall correspond to the following percentages of the monthly basic salary for Grade G1, step 4, of the salary scale applicable to the recipient concerned:

– level I 50%
– level II 75%
– level III 100%

By way of exception and on a reasoned decision of the President of the Office, the amount of the benefit may exceed that in level III, to a maximum, however, of no more than 150% of the aforementioned basic salary.

VI. Criteria for assessing the degree of reliance on long-term care

(11) The criteria to be applied for the purpose of defining the degree of reliance on long-term care shall be fixed by the President of the Office on a proposal from the external manager and after consulting the General Consultative Committee.

VII. Levying of contributions

(12) The contributions due under section II above shall be levied in accordance with the administrative procedures laid down by the President of the Office.

Regulation on internal tax

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33, paragraph 2 b), thereof,

Having regard to the Protocol on Privileges and Immunities (hereinafter referred to as the "Protocol"), and in particular Articles 16 and 17 thereof,

Whereas it is necessary to lay down the conditions and procedure under which the salaries and emoluments of the persons referred to in Articles 13 and 14 of the Protocol shall be liable to tax,

HAS ADOPTED THIS REGULATION:[1]

Article 1

The tax on salaries and emoluments instituted by Article 16 of the Protocol shall be determined and collected under the conditions and according to the procedure laid down in this Regulation.

Article 2

The President and employees of the European Patent Office to whom the Administrative Council has decided to apply Article 16 of the Protocol on the basis of the powers conferred upon it by Article 17 of that Protocol shall be liable to the tax for the benefit of the European Patent Organisation (hereinafter referred to as the "Organisation").

Article 3[2]

[3]The tax shall be due in respect of the total remuneration, emoluments, benefits and allowances, including the invalidity allowance, received from the Office by those liable to taxation, subject to the following provisions:

(1) The following shall be excluded from the total taxable amount:

(a)[4] such amounts or allowances, whether in the form of a lump sum or otherwise, laid down by the Service Regulations for permanent and other employees of the Office, as represent compensation for expenses actually incurred in the performance of duties;

(b) reimbursement in respect of medical expenses and of expenses incurred for long-term care;

(c) benefits in the form of capital sums in the case of death or total permanent invalidity.

1 Decision of the Administrative Council CA/D 13/77.
2 Amended by decision of the Administrative Council CA/D 32/08. This decision shall enter into force on 1 January 2009.
3 Amended by decision of the Administrative Council CA/D 11/14.
4 Modified by decision of the Administrative Council CA/D 2/18.

(2) The following shall be deducted from the total taxable amount:

(a) deductions made on account of pensions and retirement allowances, of the salary savings plan or of social security at a fixed rate of 12.30% of the basic salary for employees;

(b) the following allowances and benefits:

(i) household allowance,
(ii) dependant's allowance,
(iii)[1] young child allowance,
(iv) education allowance,
(v) expatriation allowance,
(vi) installation allowance,
(vii) housing allowance,
(viii) birth grant.

(3) An abatement of 5% for occupational and personal expenses (up to a maximum of EUR 51.13 per month) shall be made from the amount obtained by applying the preceding provisions.

Article 4[2]

(1) The tax shall be collected each month by deduction at source. The amount shall be rounded down to one hundredth of a euro. It shall be calculated on the taxable amount obtained by applying Article 3 and disregarding any amount not exceeding EUR 106.62 and by applying the rate of:

8% to amounts between EUR 106.63 and 1882.02;

10% to amounts between EUR 1882.03 and 2592.24;

12.50% to amounts between EUR 2592.25 and 2970.83;

15% to amounts between EUR 2970.84 and 3373.41;

17.50% to amounts between EUR 3373.42 and 3752.00;

20% to amounts between EUR 3752.01 and 4119.02;

22.50% to amounts between EUR 4119.03 and 4497.77;

25% to amounts between EUR 4497.78 and 4864.79;

27.50% to amounts between EUR 4864.80 and 5243.38;

30% to amounts between EUR 5243.39 and 5610.40;

32.50% to amounts between EUR 5610.41 and 5989.15;

35% to amounts between EUR 5989.16 and 6356.18;

1 Amended by decision of the Administrative Council CA/D 11/22.
2 Amended by decision of the Administrative Council CA/D 32/08. This decision shall enter into force on 1 January 2009.

40% to amounts between EUR 6356.19 and 6734.77;

45% to amounts in excess of EUR 6734.77.

The tax brackets shall be applicable to the salary scale for Belgium.

(2) The tax brackets under paragraph 1 shall be adjusted in line with the procedure for adjusting the remuneration of permanent employees of the Office.

(3) The tax brackets under paragraph 1 shall be adjusted, along with the salary scales and allowances, by the corresponding purchasing power parity coefficients, for each Member State where income, as defined in Article 3, is paid by the Office.

(4) By way of derogation from the above method of calculation:

(a) remuneration in respect of overtime (whether lump sums or not)
(b) remuneration in respect of unusual working hours

shall be assessed for the purposes of the tax at the average rate applied to the other taxable amounts of remuneration paid to the person concerned in the month preceding that of payment.

Article 5

Where the taxable amount covers a period of less than one month, the rate of the tax shall be that which is applicable to the corresponding monthly amount.

Where the taxable amount covers a period of more than one month, the tax shall be calculated as if this amount has been spread evenly over the month to which it relates.

Corrective payments not related to the month during which they are paid shall be subject to the tax to which they would have been subject had they been made at the proper time.

Article 6[1]

Each person liable to internal tax shall receive, as soon as possible at the beginning of each year, a statement showing the total amount of his salary, emoluments and allowances other than those mentioned in sub-paragraph 1 of Article 3, for the past financial year, and the amount of tax levied for the benefit of the Organisation.

At the same time, a duplicate of this statement shall be communicated directly by the Organisation to the central taxation authorities of the country of residence of each person concerned.

1 Amended by decision of the Administrative Council CA/D 32/08. This decision shall enter into force on 1 January 2009.

Article 7[1]

The tax proceeds shall be entered as income in the budget of the Organisation.

Article 8

This Regulation shall enter into force on 20 October 1977.

Done at Munich, 20 October 1977

For the Administrative Council

The Chairman

1 Inserted by decision of the Administrative Council CA/D 32/08. This decision shall enter into force on 1 January 2009.

Protocol on Privileges and Immunities

Article 1

(1) The premises of the Organisation shall be inviolable.

(2) The authorities of the States in which the Organisation has its premises shall not enter those premises, except with the consent of the President of the European Patent Office. Such consent shall be assumed in case of fire or other disaster requiring prompt protective action.

(3) Service of process at the premises of the Organisation and of any other procedural instruments relating to a cause of action against the Organisation shall not constitute breach of inviolability.

Article 2

The archives of the Organisation and any documents belonging to or held by it shall be inviolable.

Article 3

(1) Within the scope of its official activities the Organisation shall have immunity from jurisdiction and execution, except

(a)[1] to the extent that the Organisation shall have expressly waived such immunity in a particular case;

(b) in the case of a civil action brought by a third party for damage resulting from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Organisation, or in respect of a motor traffic offence involving such a vehicle;

(c) in respect of the enforcement of an arbitration award made under Article 23.

(2) The property and assets of the Organisation, wherever situated, shall be immune from any form of requisition, confiscation, expropriation and sequestration.

(3) The property and assets of the Organisation shall also be immune from any form of administrative or provisional judicial constraint, except in so far as may be temporarily necessary in connection with the prevention of, and investigation into, accidents involving motor vehicles belonging to or operated on behalf of the Organisation.

(4) The official activities of the Organisation shall, for the purposes of this Protocol, be such as are strictly necessary for its administrative and technical operation, as set out in the Convention.

Article 4

(1) Within the scope of its official activities the Organisation and its property and income shall be exempt from all direct taxes.

1 See Circular No. 132 appended to the Staff Regulations.

(2) Where substantial purchases for the exercise of its official activities, and in the price of which taxes or duties are included, are made by the Organisation, appropriate measures shall, whenever possible, be taken by the Contracting States to remit or reimburse to the Organisation the amount of such taxes or duties.

(3) No exemption shall be accorded in respect of duties and taxes which are no more than charges for public utility services.

Article 5

Goods imported or exported by the Organisation for the exercise of its official activities shall be exempt from duties and charges on import or export other than fees or taxes representing services rendered, and from all prohibitions and restrictions on import or export.

Article 6

No exemption shall be granted under Articles 4 and 5 in respect of goods purchased or imported for the personal benefit of the employees of the European Patent Office.

Article 7

(1) Goods belonging to the Organisation which have been acquired or imported under Article 4 or Article 5 shall not be sold or given away except in accordance with conditions laid down by the Contracting States which have granted the exemptions.

(2) The transfer of goods and provision of services between the various buildings of the Organisation shall be exempt from charges or restrictions of any kind; where appropriate, the Contracting States shall take all the necessary measures to remit or reimburse the amount of such charges or to lift such restrictions.

Article 8

The transmission of publications and other information material by or to the Organisation shall not be restricted in any way.

Article 9

The Contracting States shall accord the Organisation the currency exemptions which are necessary for the exercise of its official activities.

Article 10

(1) With regard to its official communications and the transfer of all its documents, the Organisation shall in each Contracting State enjoy the most favourable treatment accorded by that State to any other international organisation.

(2) No censorship shall be applied to official communications of the Organisation by whatever means of communication.

Article 11

The Contracting States shall take all appropriate measures to facilitate the entry, stay and departure of the employees of the European Patent Office.

Article 12

(1) Representatives of Contracting States, alternate Representatives and their advisers or experts, if any, shall enjoy, while attending meetings of the Administrative Council and of any body established by it, and in the course of their journeys to and from the place of meeting, the following privileges and immunities:

(a) immunity from arrest or detention and from seizure of their personal luggage, except when found committing, attempting to commit, or just having committed an offence;
(b) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words written and spoken, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by one of the persons referred to above, nor in the case of damage caused by a motor vehicle belonging to or driven by such a person.
(c) inviolability for all their official papers and documents;
(d) the right to use codes and to receive documents or correspondence by special courier or sealed bag;
(e) exemption for themselves and their spouses from all measures restricting entry and from aliens' registration formalities;
(f) the same facilities in the matter of currency and exchange control as are accorded to the representatives of foreign Governments on temporary official missions.

(2) Privileges and immunities are accorded to the persons referred to in paragraph 1, not for their personal advantage but in order to ensure complete independence in the exercise of their functions in connection with the Organisation. Consequently, a Contracting State has the duty to waive the immunity in all cases where, in the opinion of that State, such immunity would impede the course of justice and where it can be waived without prejudicing the purposes for which it was accorded.

Article 13

(1) Subject to the provisions of Article 6, the President of the European Patent Office shall enjoy the privileges and immunities accorded to diplomatic agents under the Vienna Convention on Diplomatic Relations of 18 April 1961.

(2) However, immunity from jurisdiction shall not apply in the case of a motor traffic offence committed by the President of the European Patent Office or damage caused by a motor vehicle belonging to or driven by him.

Article 14

The employees of the European Patent Office:

(a) shall, even after their service has terminated, have immunity from jurisdiction in respect of acts, including words written and spoken, done in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by an employee of the European Patent Office, nor in the case of damage caused by a motor vehicle belonging to or driven by an employee;

(b) shall be exempt from all obligations in respect of military service;

(c) shall enjoy inviolability for all their official papers and documents;

(d) shall enjoy the same facilities as regards exemption from all measures restricting immigration and governing aliens' registration as are normally accorded to staff members of international organisations, as shall members of their families forming part of their household;

(e) shall enjoy the same privileges in respect of exchange regulations as are normally accorded to the staff members of international organisations;

(f) shall enjoy the same facilities as to repatriation as diplomatic agents in time of international crises, as shall the members of their families forming part of their household;

(g) shall have the right to import duty-free their furniture and personal effects at the time of first taking up their post in the State concerned and the right on the termination of their functions in that State to export free of duty their furniture and personal effects, subject to the conditions considered necessary by the Government of the State in whose territory the right is exercised and with the exception of property acquired in that State which is subject to an export prohibition therein.

Article 15

Experts performing functions on behalf of, or carrying out missions for, the Organisation shall enjoy the following privileges and immunities, to the extent that they are necessary for the carrying out of their functions including during journeys made in carrying out their functions and in the course of such missions:

(a) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken, except in the case of a motor traffic offence committed by an expert or in the case of damage caused by a motor vehicle belonging to or driven by him; experts shall continue to enjoy this immunity after they have ceased to be employed by the Organisation;

(b) inviolability for all their official papers and documents;

(c) the exchange facilities necessary for the transfer of their remuneration.

Article 16

(1) The persons referred to in Articles 13 and 14 shall be subject to a tax for the benefit of the Organisation on salaries and emoluments paid by the Organisation, subject to the conditions and rules laid down by the Administrative Council within a period of one year from the date of the entry into force of the Convention. From the date on which this tax is applied, such salaries and emoluments shall be exempt from national income tax. The Contracting States may, however, take into account the salaries and emoluments thus exempt when assessing the amount of tax to be applied to income from other sources.

(2) Paragraph 1 shall not apply to pensions and annuities paid by the Organisation to the former employees of the European Patent Office.

Article 17[1]

The Administrative Council shall decide the categories of employees to whom the provisions of Article 14, in whole or in part, and Article 16 shall apply and the categories of experts to whom the provisions of Article 15 shall apply. The names, titles and addresses of the employees and experts included in such categories shall be communicated from time to time to the Contracting States.

Article 18

In the event of the Organisation establishing its own social security scheme, the Organisation and the employees of the European Patent Office shall be exempt from all compulsory contributions to national social security schemes, subject to the agreements made with the Contracting States in accordance with the provisions of Article 25.

Article 19

(1)[2] The privileges and immunities provided for in this Protocol are not designed to give to employees of the European Patent Office or experts performing functions for or on behalf of the Organisation personal advantage. They are provided solely to ensure, in all circumstances the unimpeded functioning of the Organisation and the complete independence of the persons to whom they are accorded.

(2) The President of the European Patent Office has the duty to waive immunity where he considers that such immunity prevents the normal course of justice

1 See Part II 17, Decision determining the categories of employees of the European Patent Office to whom the provisions of Articles 14 and 16 of the Protocol on Privileges and Immunities apply, and the categories of experts to whom Article 15 applies.

2 See Circular No. 132 appended to the Staff Regulations.

and that it is possible to dispense with such immunity without prejudicing the interests of the Organisation. The Administrative Council may waive immunity of the President for the same reasons.

Article 20

(1) The Organisation shall co-operate at all times with the competent authorities of the Contracting States in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning public health, labour inspection or other similar national legislation, and to prevent any abuse of the privileges, immunities and facilities provided for in this Protocol.

(2) The procedure of co-operation mentioned in paragraph 1 may be laid down in the complementary agreements referred to in Article 25.

Article 21

Each Contracting State retains the right to take all precautions necessary in the interests of its security.

Article 22

No Contracting State is obliged to extend the privileges and immunities referred to in Article 12, Article 13, Article 14, sub-paragraphs b), e) and g) and Article 15, sub-paragraph c) to:

(a) its own nationals;

(b) any person who at the time of taking up his functions with the Organisation has his permanent residence in that State and is not an employee of any other inter-governmental organisation whose staff is incorporated into the Organisation.

Article 23

(1) Any Contracting State may submit to an international arbitration tribunal any dispute concerning the Organisation or an employee of the European Patent Office or an expert performing functions for or on its behalf, in so far as the Organisation or the employees and experts have claimed a privilege or an immunity under this Protocol in circumstances where that immunity has not been waived.

(2) If a Contracting State intends to submit a dispute to arbitration, it shall notify the Chairman of the Administrative Council, who shall forthwith inform each Contracting State of such notification.

(3) The procedure laid down in paragraph 1 of this Article shall not apply to disputes between the Organisation and the employees or experts in respect of the Service Regulations or conditions of employment or, with regard to the employees, the Pension Scheme Regulations.

(4) No appeal shall lie against the award of the arbitration tribunal, which shall be final; it shall be binding on the parties. In case of dispute concerning the import or scope of the award, it shall be incumbent upon the arbitration tribunal to interpret it on request by either party.

Article 24

(1) The arbitration tribunal referred to in Article 23 shall consist of three members, one arbitrator nominated by the State or States party to the arbitration, one arbitrator nominated by the Administrative Council and a third arbitrator, who shall be the chairman, nominated by the said two arbitrators.

(2) The arbitrators shall be nominated from a panel comprising no more than six arbitrators appointed by each Contracting State and six arbitrators appointed by the Administrative Council. This panel shall be established as soon as possible after the Protocol enters into force and shall be revised each time this proves necessary.

(3) If, within three months from the date of the notification referred to in Article0 23, paragraph 2, either party fails to make the nomination referred to in paragraph 1 above, the choice of the arbitrator shall on request of the other party be made by the President of the International Court of Justice from the persons included in the said panel. This shall also apply, when so requested by either party, if within one month from the date of appointment of the second arbitrator, the first two arbitrators are unable to agree on the nomination of the third arbitrator. However, if in these two cases, the President of the International Court of Justice is prevented from making the choice, or if he is a national of one of the States parties to the dispute, the Vice-President of the International Court of Justice shall make the aforementioned appointments, provided that he himself is not a national of one of the States parties to the dispute; if such is the case, the member of the International Court of Justice who is not a national of one of the States parties to the dispute and who has been chosen by the President or Vice-President shall make the appointments. A national of the State applying for arbitration may not be chosen to fill the post of the arbitrator whose appointment devolves on the Administrative Council nor may a person included in the panel and appointed by the Administrative Council be chosen to fill the post of an arbitrator whose appointment devolves on the State which is the claimant. Nor may a person of either of these categories be chosen as chairman of the Tribunal.

(4) The arbitration tribunal shall draw up its own rules of procedure.

Article 25

The Organisation may, on a decision of the Administrative Council, conclude with one or more Contracting States complementary agreements to give effect to the provisions of this Protocol as regards such State or States, and other arrangements to ensure the efficient functioning of the Organisation and the safeguarding of its interests.

ANNEX

LIST OF PUBLISHED STATUTORY SOURCES CONCERNING THE RATIFICATION OF THE PROTOCOL ON PRIVILEGES AND IMMUNITIES (PI) AND THE EUROPEAN PATENT CONVENTION (EPC) IN THE CONTRACTING STATES OF THE EPO

1. BELGIUM

PI: Supplement to Moniteur belge of 7 October 1977, p 85 et seq.
EPC: Moniteur belge No. 190 of 30 September 1977, p 11971 et seq.

2. GERMANY

PI and EPC: BGBl. II No. 32 of 26 June 1976, p 649 et seq.; (PI) p 985 et seq.
EPC 2000: BGBl. II, 2007, No. 25, p 1082 et seq., of 31.8.2007

3. FRANCE

PI and EPC: "Journal Officiel de la République Française" of 18 May 1977, p 2815 et seq.

4. GREECE

PI and EPC: GR OJ No. 85 of 30 June 1986, Law 1607/86, p 2218 et seq.; (PI) p 2294 et seq.
EPC 2000: Law 3396/2005, GR ABl. No. 246 of 6 October 2006 (Part A)

5. IRELAND

PI: Statutory Instrument S.I. No. 392 of 11 December 1996.
EPC: Patents Act, No. 1 1992, Section 128 and 129 of 27 February 1992.

6. ITALY

PI and EPC: "Supplemento ordinario alla Gazzetta ufficiale" No. 156 of 7 June 1978, p 1 and 432 et seq.; (PI) p 563 et seq.

7. LUXEMBURG

PI and EPC: Mémorial A No. 32 of 14 June 1977, p 872 et seq.; (PI) p 959 et seq.

8. LIECHTENSTEIN

PI and EPC: LGBl. 1980-34 of 13 May 1980, p 1 et seq.; (PI) p 124 et seq.
EPC 2000: LGBl. 2007 No. 318 of 13. December 2007

9. NETHERLANDS

PI and EPC: "Tractatenblad" 1976, No. 101, p 1 et seq.; (PI) p 135 et seq.
EPC 2000: "Tractatenblad" 2002, 64

10. AUSTRIA

PI and EPC: "Bundesgesetzblatt" No. 350 of 9 August 1979, p 1740 et seq.; (PI) p 1833 et seq.
EPC 2000: "Bundesgesetzblatt" 2007, Part III, No. 136 of 14.12.2007

11. SWEDEN

PI: SFS 1978, No. 159 of 20 April 1978, SÖ 1980, No. 2, p 419 et seq.
EPC: SFS 1978, No. 149 of 20 April 1978, p 19-22.
EPC 2000: SFS 2007:516. of 7. June 2007

12. SWITZERLAND

PI: SR 0.192.110.923.2 volume AS 1977 II, p 1834.
EPC: SR 0.232.142.2 volume AS 1977 II of 29 November 1976, p. 1709.
EPC 2000: SR 0.232.142.2, AS 2007 6485.

13. UNITED KINGDOM

PI: S.I. 1978 No. 179 of 9 February 1978.
EPC: United Kingdom Patents Act 1977, Chapter 37 of 29 July 1977.
EPC 2000: Patents Act 2004, c.16 (Commencement No. 4 and Transitional provisions) Order 2007 (SI 2007/3396).

14. SPAIN

PI: BOE No. 230, 28029 of 24 September 1988.
EPC: BOE No. 234, 33353 of 30 September 1986.

15. MONACO

PI and EPC: "Ordonnance Souveraine" No. 10.382 of 27 November 1991; "Journal de Monaco" of 29 November 1991.

16. PORTUGAL

PI and EPC: "Decreto do Governo" No. 52/91, "Diário da República" No. 199, primeira série A of 30 August 1991, p 4540 et seq.

17. DENMARK

PI and EPC: "Folketingstidende" 1976/77 Annex A, column 1295 et seq., Suppl. 2.
EPC 2000: "Udenrigsministeriets bekendtgørelse" nr 42 af 13/11/2008, Lovtidende C

18. FINLAND

PI and EPC: "Suomen Säädöskokoelman Sopimussarja - Ulkovaltain Kanssa Tehdyt Sopimukset" (Finnish Treaty Series) No. 8-10 of 29 February 1996, p 13 et seq.; (PI) p 97 et seq.
EPC 2000: "Suomen Säädöskokoelman Sopimussarja - Ulkovaltain Kanssa Tehdyt Sopimukset" No. 92-96 of 10. December 2007, p 833 et seq.

19. CYPRUS

PI: "Official Gazette of the Republic of Cyprus" No. 3206 of 15 December 1997, p 1393 et seq.
EPC: "Official Gazette of the Republic of Cyprus" No. 3206 of 15 December 1997, p 1291 et seq.

20. TURKEY

PI and EPC: Supplement to "T.C. Resmi Gazete" No. 24107 of 12 July 2000, p. 737-800; (PI) p. 863-870.

21. BULGARIA

PI and EPC 2000: "State Gazette" No. 71 of 23 July 2002, p.27. (IP) p. 98.

22. ESTONIA

PI and EPC 2000: "Riigi Teataja II osa - Välislepingud, muud välissuhtlemisalased õigusaktid ja teadaanded" (State Gazette, Part 2) No. 10 of 4 April 2002, Art. 40, p. 379-568.

23. SLOVAKIA

PI and EPC 2000: "Zbierka zákonov Slovenskej republiky" (Collection of the Laws of the Slovak Republic), Law No. 376, part 152 published on 30 June 2002, p. 3855; (IP) p. 3916.

24. CZECH REPUBLIC

PI and EPC 2000: "Sbírka mezinárodních smluv" No. 69/2002, Volume 30 of 1 July 2002, p.9930-10280.

25. SLOVENIA

PI and EPC 2000: "Official Gazette RS - international treaties" No. 19 of 30 July 2002.

26. HUNGARY

PI and EPC 2000: "Official Journal" No. 152 of 7 December 2002.

27. ROMANIA

PI and EPC 2000: "Monitorul Oficial al României, Partea I", Anul XIV - No 844 of 22 November 2002.

28. POLAND

PI and EPC 2000: "Dziennik Ustaw" No. 79 of 26 April 2004, item 737.

29. ICELAND

PI: "Stjórnartíðindi C 1, nr. 1. Útgáfudagur" of 28 December 2004.
EPC 2000: "Stjórnartíðindi A 11, nr. 53. Útgáfudagur" of 14 June 2004.

30. LITHUANIA

PI and EPC 2000: "Official Gazette of the Republic of Lithuania" No. 147 of 5 October 2004. ("Valstybes žinios" 2004., No. 147-5324).

31. LATVIA

PI and EPC 2000: "LATVIJAS REPUBLIKAS OFICIALAIS LAIKRAKSTS", No. 43 (3201) of 15 March 2005.

32. MALTA

PI and EPC 2000: "The Malta Government Gazette" No. 360 of 17 April 2007.

33. CROATIA

PI and EPC 2000: "Official Journal" of Croatia - International Agreements, 2007, book 8

34. NORWAY

PI and EPC 2000: www.regjeringen.no/nb/dep/ud/dok/regpubl/stprp/20062007/stprp-nr-53-2006-2007-.html?id=458863

35. FORMER YUGOSLAV REPUBLIC OF MACEDONIA

PI and EPC 2000: "Official Journal" of MK No. 126 of 8 Oktober 2008, p 1-748

36. SAN MARINO

PI and EPC 2000: "Official Journal San Marino" (Bollettino Ufficiale della Repubblica di San Marino) 2009, No. 3 Part 6, p 404 et seq.

37. ALBANIA

PI and EPC 2000: "Fletoria Zyrtare" No. 167/2009

38. Republic of Serbia

PI and EPC 2000: "Official Gazette of the Republic of Serbia" – International Treaties No. 5/2010 and "Official Gazette of the Republic of Serbia" No. 99/2011

Complementary Agreement between the State of the Grand Duchy of Luxembourg and the European Patent Organisation concerning the inviolability of the archives of the European Patent Organisation[1]

THE STATE OF THE GRAND DUCHY OF LUXEMBOURG

AND

THE EUROPEAN PATENT ORGANISATION (EPO)

HAVING REGARD TO the Convention on the Grant of European Patents of 5 October 1973;

HAVING REGARD TO Article 25 of the Protocol on Privileges and Immunities of the European Patent Organisation;

RECOGNISING the need to protect the inviolability of the EPO's archives also where these archives consist of material in other form than paper and are held by third parties outside the EPO's Headquarters, branch and sub-offices;

REAFFIRMING that the scope of Article 2 of the Protocol on Privileges and Immunities of the European Patent Organisation includes – in addition to traditional archives – any correspondence, documents, manuscripts, photographs, films, recordings, computer and media data, data carriers and any other similar material belonging to or held by the Organisation;

HAVE AGREED AS FOLLOWS:

Article 1
Inviolability of the archives

The inviolability referred to in Article 2 of the Protocol on Privileges and Immunities of the European Patent Organisation shall apply to the entire archives, correspondence, documents, manuscripts, photographs, films, recordings, computer and media data, data carriers and any other similar material belonging to or held by the Organisation, wherever they are located and by whomsoever they are held, and all the information contained therein.

Article 2
Territorial field of application

This Complementary Agreement shall be applicable only to the territory of the State of the Grand Duchy of Luxembourg.

Article 3
Entry into force and duration

This Complementary Agreement shall enter into force upon notification by the State of the Grand Duchy of Luxembourg that the necessary constitutional

1 Mémorial A No. 613 of 25 July 2018

requirements have been fulfilled[1]. It shall apply for as long as the Convention on the Grant of European Patents of 5 October 1973 and the Protocol on Privileges and Immunities of the European Patent Organisation are in force for the State of the Grand Duchy of Luxembourg.

Done at Luxembourg on the 5th of March 2018 in two originals in the English, German and French languages, each text being equally authentic.

For the European Patent Organisation

For the State of the Grand Duchy of Luxembourg

1 Notification of 25 July 2018

Decisions determining the categories of employees of the EPO to whom the provisions of Articles 14 and 16 of the Protocol on Privileges and Immunities apply, and the categories of experts to whom Article 15 applies

DECISION OF THE ADMINISTRATIVE COUNCIL OF 20 OCTOBER 1977 DETERMINING THE CATEGORIES OF EMPLOYEES OF THE EUROPEAN PATENT OFFICE TO WHOM THE PROVISIONS OF ARTICLES 14 AND 16 OF THE PROTOCOL ON PRIVILEGES AND IMMUNITIES APPLY, AND THE CATEGORIES OF EXPERTS TO WHOM ARTICLE 15 APPLIES

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the Protocol on Privileges and Immunities (hereinafter referred to as "the Protocol"), and in particular Article 17 thereof,

Whereas the privileges and immunities conferred by the Protocol on employees of the European Patent Office and on experts performing functions on behalf of, or carrying out missions for, the European Patent Organisation are granted solely in the interests of the Organisation,

Whereas it is therefore important to ensure that employees and experts, in the light of their duties and responsibilities and of their special situation, benefit from such privileges and immunities as are necessary for the proper functioning of the Office and the Organisation,

HAS DECIDED AS FOLLOWS:[1]

Article 1

(1) Subject to the provisions of Article 22 of the Protocol, the provisions of Article 14 thereof shall apply to permanent employees of the European Patent Office in active employment.

(2) Subject to the provisions of Article 22 of the Protocol, the provisions of Article 14 a), c) e) and f) of the Protocol shall apply to members of the Enlarged Board of Appeal in accordance with Article 11(5) EPC 2000[2].

Article 2

Article 15 of the Protocol shall apply to experts performing functions on behalf of or carrying out missions for the Organisation.

Article 3

The President of the Office and all persons to whom the Service Regulations for Permanent Employees of the European Patent Office apply shall be subject to the tax for the benefit of the Organisation and thus shall be exempt from payment of national income tax, as laid down in Article 16, paragraph 1, of the Protocol.

Article 4

This Decision shall enter into force on 20 October 1977.

Done at Munich, 20 October 1977.

For the Administrative Council

The Chairman

1 Decision of the Administrative Council CA/D 11/77.
2 Amended by decision of the Administrative Council CA/D 39/07.

DECISION OF THE ADMINISTRATIVE COUNCIL OF 17 MAY 1979 SUPPLEMENTING THE DECISION OF 20 OCTOBER 1977 DETERMINING THE CATEGORIES OF EMPLOYEES OF THE EUROPEAN PATENT OFFICE TO WHOM THE PROVISIONS OF ARTICLES 14 AND 16 OF THE PROTOCOL ON PRIVILEGES AND IMMUNITIES APPLY, AND THE CATEGORIES OF EXPERTS TO WHOM ARTICLE 15 APPLIES

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the Protocol on Privileges and Immunities, (hereinafter referred to as "the Protocol"), and in particular Article 17 thereof,

Whereas the Decision of 20 October 1977 determining the categories of employees of the European Patent Office to whom the provisions of Articles 14 and 16 of the Protocol on Privileges and Immunities apply, and the categories of experts to whom Article 15 applies does not contain any provision defining the extent to which Article 14 of the Protocol applies to permanent employees of the European Patent Office assigned to non-active status or reserve status,

HAS DECIDED AS FOLLOWS:[1]

Article 1

(1) The provisions of Article 14 a) of the Protocol shall apply to permanent employees of the European Patent Office assigned to non-active or reserve status.

(2) Subject to Article 22 of the Protocol, the provisions of Article 14 e) of the Protocol shall apply to the permanent employees referred to in paragraph 1 as regards any payment made by the Office, as shall the provisions of Article 14 g), in the event of termination of service.

(3) The privileges mentioned in Article 14 d) and f) of the Protocol shall be accorded to permanent employees assigned to non-active status who are seconded in the interests of the service. Article 14 d) and f) of the Protocol shall apply to other permanent employees assigned to non-active or reserve status only in the State in which they were employed or had their place of residence at the time of assignment to such administrative status.

Article 2

This Decision shall enter into force on 17 May 1979.

Done at Munich, 17 May 1979.

For the Administrative Council

The Chairman

1 Decision of the Administrative Council CA/D 3/79.

DECISION OF THE ADMINISTRATIVE COUNCIL OF OF 21 MARCH 2018 ON MODERNISATION OF THE EPO'S EMPLOYMENT FRAMEWORK

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Articles 10(2)(c) and 33(2)(b) and (c) thereof,

Having regard to the Service Regulations for permanent employees of the European Patent Office (hereinafter referred to as "the Service Regulations") and to the New Pension Scheme Regulations of the European Patent Office,

Whereas employees on fixed-term appointments may not account for more than 20% of the total of budgeted posts at the European Patent Office;

On a proposal from the President of the European Patent Office, submitted after consulting the General Consultative Committee,

HAS DECIDED AS FOLLOWS[1]:

[...]

V. Miscellaneous

Article 42

(1) Article 14 of the Protocol on Privileges and Immunities of the European Patent Organisation shall apply to fixed-term employees in active employment and to those assigned to non-active status, subject to the provisions laid down in Article 22 of that Protocol.

(2) Fixed-term employees shall be subject to tax on the salaries and emoluments paid by the Office in accordance with the Regulation on internal tax for the benefit of the European Patent Organisation and shall therefore be exempt from national income tax in accordance with Article 16, paragraph 1, of the Protocol.

[...]

Article 46

This decision shall enter into force on 1 April 2018.

Done at Munich, 21 March 2018.

For the Administrative Council

The Chairman
Christoph ERNST

1 Decision of the Administrative Council CA/D 2/18.

DECISION OF THE ADMINISTRATIVE COUNCIL OF 9 DECEMBER 1983 DETERMINING THE MEMBERS OF THE INSTITUTE OF PROFESSIONAL REPRESENTATIVES BEFORE THE EUROPEAN PATENT OFFICE TO WHOM ARTICLE 15 OF THE PROTOCOL ON PRIVILEGES AND IMMUNITIES OF THE EUROPEAN PATENT ORGANISATION APPLIES

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION

Having regard to the Protocol on Privileges and Immunities of the European Patent Organisation, in particular Article 17 thereof,

Whereas the duties and powers of members of the Institute serving as members of:

- a disciplinary body within the meaning of the Regulation on discipline for professional representatives;
- the Examination Board or an Examination Committee within the meaning of the Regulation of the European Qualifying Examination,

necessitate their being extended the privileges and immunities of experts provided for in the Protocol on Privileges and Immunities of the European patent Organisation,

HAS DECIDED AS FOLLOWS:[1]

Article 1

Article 15 of the Protocol on Privileges and Immunities of the European Patent Organisation shall apply mutatis mutandis to members of the Institute serving as members of a disciplinary body within the meaning of Article 5 of the Regulation on discipline for professional representatives, or as members of the Supervisory Board, the Examination Board or an Examination Committee within the meaning of Articles 2, 4 and 7 of the Regulation on the European Qualifying Examination.

Article 2

This decision shall enter into force on 1 January 2009.

Done at Munich, 10 December 2008.

For the Administrative Council

The Chairman

1 Modified by decision of the Administrative Council CA/D 31/08.

DECISION OF THE ADMINISTRATIVE COUNCIL OF 16 MARCH 1992 SUPPLEMENTING THE DECISION OF 20 OCTOBER 1977 DETERMINING THE CATEGORIES OF EMPLOYEES OF THE EUROPEAN PATENT OFFICE TO WHOM THE PROVISIONS OF ARTICLES 14 AND 16 OF THE PROTOCOL ON PRIVILEGES AND IMMUNITIES APPLY, AND THE CATEGORIES OF EXPERTS TO WHOM ARTICLE 15 APPLIES

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the Protocol on Privileges and Immunities (hereinafter referred to as "the Protocol"), and in particular Article 17 thereof,

Whereas the decision of 20 October 1977 determining the categories of employees of the European Patent Office to whom the provisions of Articles 14 and 16 of the Protocol apply, and the categories of experts to whom Article 15 of the Protocol applies, does not stipulate to what extent Articles 14 and 16 of the Protocol apply to members of the Boards of Appeal of the European Patent Organisation serving on a temporary contract basis,

On a proposal from the President of the European Patent Office,

HAS DECIDED AS FOLLOWS:[1]

Article 1

(1) Article 14 of the Protocol shall apply to members of the Boards of Appeal of the European Patent Organisation who are serving on a temporary contract basis.

(2) The persons concerned shall be subject to the tax levied for the benefit of the European Patent Organisation and thus shall be exempt from payment of national income tax, as laid down in Article 16, paragraph 1, of the Protocol.

Article 2

This decision shall enter into force on 1 April 1992.

It shall take effect from 1 April 1992.

Done at Munich, 16 March 1992.

For the Administrative Council

The Chairman

1 Decision of the Administrative Council CA/D 9/92.

DECISION OF THE ADMINISTRATIVE COUNCIL OF 17 MARCH 1992 SUPPLEMENTING THE DECISION OF 20 OCTOBER 1977 DETERMINING THE CATEGORIES OF EMPLOYEES OF THE EUROPEAN PATENT OFFICE TO WHOM THE PROVISIONS OF ARTICLES 14 AND 16 OF THE PROTOCOL ON PRIVILEGES AND IMMUNITIES APPLY, AND THE CATEGORIES OF EXPERTS TO WHOM ARTICLE 15 APPLIES

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the Protocol on Privileges and Immunities (hereinafter referred to as "the Protocol"), and in particular Article 17 thereof,

Whereas the Decision of 20 October 1977 determining the categories of employees of the European Patent Office to whom the provisions of Articles 14 and 16 of the Protocol apply, and the categories of experts to whom Article 15 of the Protocol applies contains no provision setting out in what respects Article 14 of the Protocol applies to European Patent Office employees recruited on contracts of fixed or indefinite duration, and in particular to the Administrator of the pension reserve fund of the European Patent Organisation;

On a proposal from the President of the European Patent Office,

HAS DECIDED AS FOLLOWS:[1]

Article 1

(1) Subject to the provisions of Article 22 of the Protocol, Article 14 of the Protocol shall apply to the Administrator of the pension reserve fund of the European Patent Organisation.

(2) The Administrator shall be subject to the tax for the benefit of the Organisation and shall thus be exempt from payment of national income tax, as provided for in Article 16, paragraph 1, of the Protocol.

Article 2

This decision shall enter into force on 1 April 1992.

It shall apply with effect from 1 April 1992.

Done at Munich, 17 March 1992

For the Administrative Council

The Chairman

1 Decision of the Administrative Council CA/D 10/92.

Headquarters agreement between the European Patent Organisation and the Government of the Federal Republic of Germany

THE EUROPEAN PATENT ORGANISATION

and

THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY,

Having regard to the Convention on the Grant of European Patents of 5 October 1973,

Having regard to Article 25 of the Protocol on Privileges and Immunities of the European Patent Organisation,

Whereas, pursuant to Article 6 of the said Convention, the European Patent Office shall be set up in Munich;

Whereas, pursuant to the Protocol on the Centralisation of the European System and on its Introduction, the European Patent Office shall have a sub-office in Berlin (West),

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

In this Agreement:

(a) "Convention" means the Convention on the Grant of European Patents of 5 October 1973;

(b) "Protocol" means the Protocol on Privileges and Immunities of the European Patent Organisation;

(c) "Organisation" means the European Patent Organisation;

(d) "Government" means the Government of the Federal Republic of Germany;

(e) "Office" means the European Patent Office;

(f) "appropriate authorities" means the competent authorities in accordance with the law of the Federal Republic of Germany.

Article 2
Inviolability of the archives

The inviolability referred to in Article 2 of the Protocol shall apply to the entire archives, correspondence, documents, manuscripts, photographs, films and recordings belonging to or held by the Organisation and all the information contained therein.

Article 3[1]
Waiving of immunity

In the case of attachment by a third party, pursuant to a decision by the administrative or judicial authorities, of the salaries or emoluments owed by the Organisation

1 See Circular No. 132 appended to the Staff Regulations.

to a member of its staff, the Organisation waives the immunity which it enjoys pursuant to Article 3, paragraph 1, of the Protocol unless it informs the competent authorities within fourteen days following the date of notification to it of the decision that it does not waive its immunity.

Article 4
Exemption from tax

(1) For the purposes of Article 4, paragraph 1, of the Protocol "direct taxes" shall embrace all direct taxes levied by the Federal Government, by a "Land" or any other "Gebietskörperschaft" (regional or local authority). In particular, "direct taxes" shall include:

(a) "Einkommensteuer" (Körperschaftsteuer) (income tax/corporation tax);
(b) "Gewerbesteuer" (trade tax);
(c) "Vermögenssteuer" (property tax);
(d) "Grundsteuer" (land tax).

(2) On the basis of Article 4 of the Protocol, the Organisation shall also be exempt from "Grunderwerbssteuer" (land transfer duty).

(3) Vehicles and trailers registered in the name of the Organisation shall be exempt from motor vehicle tax on application.

Article 5
Reimbursement of taxes

Pursuant to Article 4, paragraph 2, of the Protocol, the Federal Finance Office shall, upon request, refund to the Organisation out of revenue from turnover tax, turnover tax specifically charged to the Organisation by undertakings in respect of deliveries and other services performed by them insofar as such transactions are performed exclusively in connection with the official activities of the Organisation. Such reimbursement shall be made only if the amount of tax due for an individual transaction exceeds DEM 50 and has been paid by the Organisation to the undertaking. If the amount of tax reimbursed is subsequently reduced, the Organisation shall notify the Federal Finance Office and repay the amount of the reduction.

Pursuant to Article 4, paragraph 2, of the Protocol, the Federal Finance Office shall also, at the request of the Organisation refund the tax on hydrocarbons included in prices in respect, in particular, of petrol, diesel fuel and heating oil where the amount of tax due for an individual transaction exceeds DEM 50.

Article 6
Disposal of goods

(1) If an article purchased or imported by the Organisation for the exercise of its official activities in respect of which exemption from turnover tax or importation turnover tax has been granted pursuant to Article 4, paragraph 2, or Article 5 of the Protocol is disposed of, hired out or transferred whether in return for payment or free of charge, the amount of the turnover tax or

importation turnover tax corresponding to the selling price or, in the case of disposal or transfer free of charge, the amount of such tax corresponding to the current value of the article, shall be paid to the Federal Finance Office. For the sake of simplicity, the amount of tax payable may be determined by applying the taxation rate applicable at the time of disposal or transfer of the article.

(2) Goods imported by the Organisation under the conditions laid down in Article 5 of the Protocol may not be disposed of, hired out or transferred whether in return for payment or free of charge unless the appropriate customs authority has been notified beforehand and the relevant duties have been paid. The duties payable shall be calculated on the basis of the current value of the goods.

Article 7[1]
Work permit, residence permit, compulsory registration

Employees of the Office exercising their functions in the Federal Republic of Germany:

(a) shall not require a work permit;

(b) shall not require a residence permit and shall not be subject to the provisions governing aliens' registration provided that they hold the personal identity card referred to in Article 8, paragraph 2; the same shall apply to members of their families forming part of their household.

Article 8
Notification of appointments, personal identity cards

(1) The Organisation shall notify the Government when an employee of the Office or an expert of the Organisation takes up or relinquishes his duties. Furthermore, it shall periodically send the Government a list of all the employees of the Office and experts of the Organisation. It shall in each case indicate whether or not the person concerned is a German national.

(2)[2] Employees of the Office exercising their functions in Munich or Berlin and members of their families forming part of their household shall hold a personal identity card issued by the Organisation stating name, date and place of birth, nationality and number of passport or of national identity card (aliens only), and bearing a photograph and signature.

Article 9
Nationals and permanent residents

German nationals and persons referred to in Article 22, sub-paragraph b), of the Protocol shall not enjoy the privileges and immunities laid down inArticles 12, 13, 14. sub-paragraphs b), e) and g) and Article 15, sub-paragraph c), of the Protocol.

1 See Circular No. 290 in Part Ib.
2 See Circular No. 238 in Part Ib.

Article 10
Flag and emblem

The Organisation shall be entitled to display its flag and emblem on its premises and on vehicles used for its official activities.

Article 11
Premises of the Organisation in Munich

(1) Until such time as the Office is accommodated in the building referred to in paragraph 2, the Organisation shall lease offices in the Motorama building situated in Munich at Rosenheimer Straße 30.

(2) For the definitive accommodation of the Office, the Federal Republic of Germany shall construct a building on a site situated in Munich at Erhardtstrasse, as defined in the plan annexed hereto[1] in respect of which a building lease ("Gesamterbbaurecht") shall have been granted to it by the Free State of Bavaria and the City of Munich. The transfer of the lease from the Federal Republic of Germany to the Organisation shall be governed by an agreement.

Article 12
Premises of the Berlin sub-office

The Berlin sub-office of the Office shall, pursuant to the Agreement between the Government and the Organisation on the setting up of the Berlin sub-office, be accommodated in the building of the former National Patent Office (Reichspatentamt) situated in Berlin.

The arrangements whereby a part of this building shall be transferred to the Organisation shall be laid down in an Additional Agreement to the above-mentioned Agreement.

Article 13
Inviolability of premises

The premises within the meaning of Article 1 of the Protocol shall be the building and parts of buildings occupied by the Organisation for the performance of its official activities. The President of the Office shall communicate to the Government plans of these premises.

Article 14
Disputes

Any dispute arising out of the interpretation or application of this Agreement which cannot be settled directly between the Parties may be submitted byeither Party to an arbitration tribunal. Article 23, paragraph 4, and Article 24 of the Protocol shall apply.

1 Plan not included in this edition.

Article 15
Modifications

At the request of the Government or of the Organisation, consultations shall take place on the implementation or modification of this Agreement.

Article 16
Berlin clause

This Agreement shall also apply to the Land Berlin unless the Government informs the Organisation to the contrary within three months of its entry into force.

Article 17
Entry into force and duration

This Agreement shall enter into force upon signature. It shall apply for as long as the Convention and the Protocol remain in force in the Federal Republic of Germany.

Done at Munich this nineteenth day of October in the year one thousand nine hundred and seventy-seven in two originals in the English, French and German languages, the three texts being equally authentic.

For the European Patent Organisation

For the Government of the Federal Republic of Germany

Circular No. 238 (5 March 1996, 4 September 2013)[1]
Passes

Circular No. 238 - addendum (29 April 1996, 4 September 2013)[1]
Black passes for non-German family members

Circular No. 290 (5 October 2005)[1]
Work permits no longer needed in Germany for family members of an EPO employee forming part of the employee's household

1 See Part Ib.

Agreement between the European Patent Organisation and the Kingdom of the Netherlands concerning the branch of the European Patent Organisation at The Hague

THE EUROPEAN PATENT ORGANISATION

and

THE KINGDOM OF THE NETHERLANDS,

Having regard to the Convention on the Grant of European Patents of 5 October 1973,

Having regard to Article 25 of the Protocol on Privileges and Immunities of the European Patent Organisation,

Whereas, pursuant to Article 6 of the said Convention, the European Patent Office shall have a branch at The Hague,

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

In this Agreement:

(a) "Convention" means the Convention on the Grant of European Patents of 5 October 1973;

(b) "Protocol" means the Protocol on Privileges and Immunities of the European Patent Organisation;

(c) "Organisation" means the European Patent Organisation;

(d) "Government" means the Government of the Kingdom of the Netherlands;

(e) "Office" means the European Patent Office;

(f) "branch" means the branch of the European Patent Office at The Hague (Rijswijk);

(g) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961;

(h) "Separate Agreement" means the Separate Agreement containing the definition of members of the family forming part of the employee's household.

Article 2
Inviolability of the archives

The inviolability referred to in Article 2 of the Protocol shall apply to the entire archives, correspondence, documents, manuscripts, photographs, films, recordings, computer and media data, data carriers and any other similar material belonging to or held by the Organisation, wherever they are located and by whomsoever they are held, and all the information contained therein.

Article 3[1]
Waiving of immunity

In the case of attachment by a third party, pursuant to a decision by the administrative or judicial authorities, of the salaries or emoluments owed by the Organisation to a member of its staff, the Organisation waives the immunity which it enjoys pursuant to Article 3, paragraph 1, of the Protocol unless it informs the competent authorities that it does not waive its immunity within fourteen days following the date of notification of the decision.

Article 4
Exemption from tax

(1) For the purposes of Article 4, paragraph 1, of the Protocol „direct taxes" shall embrace all direct „Rijksbelastingen" (State taxes) and all direct taxes, dues and levies imposed by a province, municipality or „waterschap" without prejudice to the provisions of paragraph 3 of the said Article.

(2) The Organisation shall on application be exempted from motor-vehicle tax in respect of its motor vehicles used for official purposes.

Article 5
Reimbursement of taxes and duties

(1) The following taxes and duties shall in particular be considered to fall under Article 4, paragraph 2, of the Protocol:

   (a) Turnover tax on goods supplied or services rendered to the Organisation;
   (b) Excise duties on goods;
   (c) Tax on acquisition of real property, insurance tax and stock exchange tax.

(2) The turnover tax paid in respect of goods supplied or services rendered shall be refunded to the Organisation on application.

   The tax on hydrocarbons such as fuel oil and motor fuels which the Organisation requires for official purposes shall be refunded to the Organisation on application.

   Excise duty paid on goods supplied and required for official purposes shall be refunded to the Organisation on application.

   The Organisation shall submit applications for reimbursement within three months after the quarter during which payment was made for goods supplied or services rendered and shall send the relevant documents together with the applications.

   The Organisation undertakes to facilitate the verification by the competent authorities of the facts on which the tax exemption or tax refund can be based.

1 See Circular No. 132 in Part 1b.

No refund shall be granted unless the price of the goods supplied or the services rendered exceeds 225 euros per transaction.

Article 6
Disposal of goods

(1) Goods acquired by the Organisation under the conditions laid down in Article 4, paragraph 2, of the Protocol may not be sold, given away, hired out or otherwise disposed of unless the competent authorities have been notified beforehand and the relevant turnover tax has been paid. The tax payable shall be calculated on the basis of the current value of the goods.

(2) If the Organisation sells, gives away, hires out or otherwise disposes of any of the goods imported under the conditions laid down in Article 5 of the Protocol, it shall declare the goods for importation and pay the taxes, dues and levies in respect of such goods.

(3) The value stated on the declaration for importation shall be the value of the goods on the date of declaration; the tariff in force on the date of declaration shall apply.

Article 7
Work permit, residence permit, compulsory registration

(1) Employees of the Office exercising their functions in the Netherlands:

(a) shall not require a work permit;
(b) shall not require a residence permit, and shall not be subject to the provisions governing aliens' registration, provided that they hold the personal identity card referred to in Article 8; the same shall apply to members of their family forming part of their household;
(c) shall not be subject to the application of the regulations regarding the registration of religious denomination in the Netherlands population registers; the same shall apply to members of their family forming part of their household.

(2) Members of the family forming part of the household of an employee of the Office, as defined in paragraph 1 of the Separate Agreement, shall not require a work permit for the duration of the employee's employment with the Office.

(3) The rights granted to employees of the Office during their period of employment and to the members of their family forming part of their household shall expire on the employees' final departure or on expiry of a reasonable period as referred to in Article 39, paragraphs 2 and 3, of the Vienna Convention, such period being counted from the date on which the employees relinquish their duties or the family members cease to form part of their household.

(4) Notwithstanding paragraph 3, former employees of the Office and members of their family forming or having formed part of their household shall be

entitled to a right of residence in the Netherlands in conformity with the Netherlands' aliens legislation. For the purpose of acquiring residence rights under the Netherlands' aliens legislation, any period of legitimate stay in the Netherlands, either as a privileged person or under the aliens legislation, accrued either before or during the employment of the employee concerned with the branch, shall be recognised and counted.

Article 8
Identity cards

(1) The Organisation shall promptly notify the Government of:

(a) the names of employees of the Office exercising their functions in the Netherlands;
(b) their arrival and final departure and the dates on which they take up and relinquish their duties;
(c) the names and arrival and final departure of members of an employee's family forming part of the employee's household and the fact that a person has ceased to form part of the household; and
(d) the names and arrival and final departure of private and domestic servants of employees of the Office and the fact that they have left the employ of such employees.

(2) The Government shall issue identity cards to the following persons:

(a) the employees of the Office exercising their functions in the Netherlands;
(b) the members of their family forming part of their household who are not Netherlands nationals;
(c) the members of their family forming part of their household who are Netherlands nationals, if the Office shows that it is necessary to do so in the interest of the Organisation;
(d) private and domestic servants, who are neither Netherlands nationals nor in possession of a valid permanent residence permit, of employees of the Office.

(3) The identity cards issued by the Government shall state only the holder's name, sex, date and place of birth, and nationality, and shall bear a photograph of the holder. The card shall serve to identify the holder vis-à-vis the Government and its authorities and shall reflect the status of the holder under the Protocol and this Agreement.

(4) The Organisation shall make the personal data that will appear on the identity card available to the Government. The recipient Government Authority shall make the data available to other Government Authorities solely for the application of the Protocol and this Agreement. The data shall be subject to the Netherlands' data protection legislation.

(5) Electronically accessible data on the identity cards shall be limited to the data listed in paragraph 3. However, the Government may add further

electronically accessible data if it is under an international obligation to do so for reasons of public security and provided this does not affect any of the rights under the Protocol and this Agreement. The Government shall inform the Organisation of the intended changes at the earliest possible date prior to their implementation.

(6) The Organisation shall promptly return the identity cards of the persons mentioned in paragraph 2 after termination of employment of the persons involved, with due regard to the reasonable period stipulated in Article 7, paragraph 3.

Article 9
Privileges and immunities
of the President and the head of the branch

(1) The President of the Office shall, when visiting the Netherlands, enjoy the same privileges and immunities as the Netherlands accords to heads of diplomatic missions in the Netherlands in accordance with the Vienna Convention.

(2) The head of the branch shall enjoy the same privileges and immunities as the Netherlands accords to heads of diplomatic missions in the Netherlands in accordance with the Vienna Convention.

(3) The same provisions shall apply to the members of their families forming part of their respective households.

(4) This Article does not detract from any provisions in this Agreement or the Protocol.

(5) This Article shall not apply to nationals or permanent residents of the Netherlands.

Article 10
Privileges and immunities of the employees of the Office

(1) Employees of the Office exercising their functions in the Netherlands,

(a) having the professional grade of A5 and above, or
(b) having the professional grade of A4, provided they have been in that grade for more than two years and have had a basic salary not lower than A5 step 1, from the first of January following the year in which both requirements were fulfilled

shall enjoy the same privileges and immunities as the Netherlands accords to diplomatic agents of the diplomatic missions established in the Netherlands in accordance with the Vienna Convention, except that immunity from criminal jurisdiction and personal inviolability shall not extend to acts performed outside the course of their official duties.

(2) Employees of the Office exercising their functions in the Netherlands who are not service staff and who do not fall under paragraph 1 shall enjoy

the same privileges and immunities as the Netherlands accords to administrative and technical staff of the diplomatic missions established in the Netherlands in accordance with the Vienna Convention, except that immunity from criminal jurisdiction and personal inviolability shall not extend to acts performed outside the course of their official duties.

(3) The same provisions shall apply to the members of their families forming part of their respective households.

(4) Immunity from jurisdiction shall not apply in the case of a civil action brought by a third party for damage resulting from a motor traffic offence.

(5) This Article does not detract from any provisions in this Agreement or the Protocol.

(6) This Article shall not apply to nationals or permanent residents of the Netherlands.

Article 11
Servants

(1) For the duration of their stay in the Netherlands, employees of the Office exercising their functions in the Netherlands shall be allowed to employ domestic servants or, where applicable, private servants.

(2) The domestic or private servants referred to in paragraph 1 shall be required to hold neither a work permit nor a residence permit.

Article 12
Progression

The Netherlands shall not take into account any of the payments made by the Organisation which are exempt from national income tax pursuant to the Protocol when assessing the amount of tax to be applied to income from other sources.

Article 13
Driving licence

During their period of employment, employees of the Office, the members of their family forming part of their household and their domestic or private servants shall be allowed to obtain a Netherlands driving licence on presentation of their valid foreign driving licence or to continue to drive using their own valid foreign driving licence, provided the holder is in possession of an identity card issued by the Government.

Article 14
Entry, stay and departure

(1) The Government shall facilitate the entry, stay and departure of the persons listed below:

(a) serving employees of the Office and members of the family forming part of their household;
(b) domestic and private servants of employees of the Office;
(c) experts;
(d) other persons who are invited by the Organisation for an official purpose.

(2) Visas or, if appropriate, multiple entry visas required by persons referred to in paragraph 1, shall be granted without charge and as promptly as possible.

(3) This arrangement shall not preclude a request for presentation of reasonable evidence to establish that persons claiming the treatment provided for in this arrangement fall within the categories described in paragraph 1.

Article 15
Nationals and permanent residents

(1) Netherlands nationals and persons referred to in Article 22, sub-paragraph (b), of the Protocol exercising their functions in the Netherlands shall not enjoy the privileges and immunities laid down in Article 12, paragraph 1, sub-paragraphs (a), (e) and (f), Article 13, Article 14, sub-paragraphs (b), (e) and (g), and Article 15, sub-paragraph (c), of the Protocol, and Article 7, paragraph 1, sub-paragraph (c), of this Agreement.

(2) Employees of the Office who are Netherlands nationals or who are referred to in Article 22, sub-paragraph (b), of the Protocol, exercising their functions in the Netherlands, whose names have, by reason of their duties, been entered on a list drawn up by the Organisation and approved by the Minister of Defence of the Kingdom of the Netherlands, shall be exempt from military service. In the event of other Netherlands nationals and permanent residents being called up for military service, the Minister of Defence of the Kingdom of the Netherlands shall, at the request of the Organisation, grant them such deferment as may be necessary to avoid the interruption of essential work.

Article 16
Office facilities

The Government recognises that certain services, amenities and support are required for the proper and efficient operation of the Office and shall make every effort to assist the Office in establishing and maintaining the proper functioning of the Office's facilities in the Netherlands.

Article 17
Premises of the branch

The premises of the branch within the meaning of Article 1 of the Protocol shall be buildings, parts of buildings and land or facilities ancillary thereto, including

installations and facilities made available to, or maintained, occupied or used by, the Organisation in the Netherlands for the performance of its official activities. The President of the Office shall communicate plans of these premises to the Government.

Article 18
Joint Consultative Committee

(1) A Joint Consultative Committee shall facilitate the implementation of this Agreement and may address other administrative issues through consultations between the relevant authorities of the Kingdom of the Netherlands and the Organisation. It shall meet at least once a year and may convene at any other time at the request of the Government or the Organisation.

(2) The Chairman of the Committee shall be appointed by mutual agreement between the Government and the Organisation.

Article 19
Disputes

Any dispute arising from the interpretation or application of this Agreement which cannot be settled directly between the parties may be submitted by either party to an arbitration tribunal. Article 23, paragraph 4, and Article 24 of the Protocol shall apply.

Article 20
Modifications

At the request of the Government or of the Organisation, consultations shall take place on the implementation or modification of this Agreement.

Article 21
Most favourable treatment

If and to the extent that the Government, in the future, enters into an agreement with, or changes its policy with respect to, any intergovernmental organisation, and said agreement or policy contains terms or conditions more favourable to that organisation than comparable terms or conditions in this Agreement, consultations shall be entered into at the request of the Organisation with a view to discussing whether the same treatment may be extended to the Organisation.

Article 22
Status of the Separate Agreement

The Separate Agreement concluded together with this Agreement forms an integral part thereof. Any reference to this Agreement includes the Separate Agreement.

Article 23
Entry into force and duration

(1) This Agreement shall enter into force upon signature. It shall apply for as long as the Convention and the Protocol are in force for the Kingdom of the Netherlands.

(2) Upon entry into force of this Agreement, the Agreement between the European Patent Organisation and the Kingdom of the Netherlands concerning the branch of the European Patent Office at The Hague of 19 October 1977, the agreement concluded by the Exchange of Notes between the Kingdom of the Netherlands and the European Patent Organisation concerning the employment of family members of 6 April 2005 and the agreement concluded by the Exchange of Notes between the Kingdom of the Netherlands and the European Patent Organisation in the light of the Netherlands Government Policy Framework on Attracting and Hosting International Organisations of 28 November 2005 and 13 December 2005, shall cease to be in force.

(3) With respect to the Kingdom of the Netherlands, this Agreement shall apply to the part of the Kingdom in Europe only.

Done at The Hague this 27 June in the year 2006 in two originals in the English, French, German and Netherlands languages, the four texts being equally authentic.

For the European Patent Organisation

For the Kingdom of the Netherlands

SEPARATE AGREEMENT

1. For the purposes of the Agreement between the European Patent Organisation and the Kingdom of the Netherlands concerning the branch of the European Patent Office at The Hague, the following persons shall be recognised as members of the family forming part of the employee's household:

   (a) the spouse or registered partner of an employee of the Office;
   (b) children of an employee of the Office, of his spouse or of his registered partner who are under the age of 18;
   (c) children of an employee of the Office, of his spouse or of his registered partner who are between 18 and 27 years of age, provided that they:

      (i) are unmarried,
      (ii) are financially dependent on the employee of the Office, his spouse or his registered partner, and
      (iii) are either attending school or studying, or following vocational training, apprenticeship or education, whether or not including a work placement, or intending to do so, in the Netherlands;

   (d) children under the age of 18 and children who fulfil the requirements listed in sub-paragraph (c) for whom an application for adoption has been lodged and the adoption procedure has been started by an employee of the Office, his spouse or his registered partner;
   (e) irrespective of age, dependent disabled children, or children who are prevented by serious illness or invalidity from earning a livelihood throughout the period of that illness or invalidity, of an employee of the Office, of his spouse or of his registered partner, provided that the Office supplies the Government with a certificate to that effect.

2. Children of an employee of the Office, of his spouse or of his registered partner who are between 18 and 24 years of age, shall also be recognised as members of the family forming part of the household if they do not fulfil the condition set out in paragraph 1, sub-paragraph (c), item (iii), as long as they fulfil the other conditions set out in that sub-paragraph.

3. By mutual agreement between the Government and the Office, persons other than those referred to in paragraphs 1 and 2 may either:

   (a) be recognised as a member of the family in accordance with paragraph 1, with the exception that a work permit shall only be issued if permitted by the laws and regulations of the Netherlands; or
   (b) be issued a multiple entry visa without charge and as promptly as possible for the purpose of visiting the employee, his spouse or his registered partner.

4. For the purposes of paragraph 3, the Government shall give favourable consideration:

(a) to persons who do not fulfil the criteria laid down in paragraphs 1 and 2 but who are recognised as dependants pursuant to the Service Regulations for permanent employees of the Office and are therefore subject to the social security system of the Office; and
(b) to seriously ill or invalid parents for humanitarian reasons.

5. Members of the family recognised as forming part of the household under this Separate Agreement may be included in that household on the employee's arrival in the Netherlands or join that household at any time thereafter.

Decision by the President of the European Patent Office concerning the interpretation of Article 10 (1) Seat Agreement between the EPO and the Netherlands

The President of the European Patent Office,

having regard to the Agreement between the Kingdom of the Netherlands and the European Patent Organisation concerning the Branch of the European Patent Office at The Hague of 27 June 2006 (the “Seat Agreement”), and in particular Article 10 thereof,

whereas the European Patent Office introduced a new career system which entered into force as per 1 January 2015 (Article 54 CA/D 10/14),

whereas every employee has been transposed to the new system with effect from 1 July 2015 (Article 56 (5) CA/D 10/14),

whereas the Administrative Council mandated the President to take appropriate measures to ensure a smooth transition to the new system (Article 62 CA/D 10/14),

whereas such measure is needed for the implementation of Article 10 of the Seat Agreement as from the entry into force of the new career system.

whereas Article 10 (1) (b) Seat Agreement bases the entitlement to diplomatic privileges and immunities on the entitlement to the lowest level of basic salary of a director, which principle remains unaltered in the context of the new career system,

whereas it was agreed with the Netherlands Ministry of Foreign Affairs that no formal amendment of the Seat Agreement is necessary under these circumstances,

has decided as follows:

Article 1

Article 10 (1) of the Seat Agreement shall be interpreted as follows:

"1. Employees of the Office exercising their functions in the Netherlands,

a. in the job group 3 (G13/3) and above, or
b. in the job group 4 and having at least a basic salary corresponding to the lowest possible basic salary of an employee in the job group 3 (G13/3), from the first of January following the year in which both requirements were fulfilled

shall enjoy the same privileges and immunities as the Netherlands accords to diplomatic agents of the diplomatic missions established in the Netherlands in accordance with the Vienna Convention, except that immunity from criminal jurisdiction and personal inviolability shall not extend to acts performed outside the course of their official duties."

Article 2

The above interpretation shall enter into force as per 1 January 2015, this being the date of the entry into force of the new career system of the European Patent Office.

Article 3

Employees of the Office exercising their functions in the Netherlands to whom Article 10 (1) of the Seat Agreement applied on 1 January 2015 or before, shall keep the privileges and immunities based thereon, irrespective of the result of the transposition to the new career system.

Article 4

Employees of the Office exercising their functions in the Netherlands who do not fall under Article 3, who had a basic salary not lower than A5 step 1 on 1 January 2015 and who were assigned to grade A4 before or on 1 July 2013 shall be entitled as per 1 January 2016 to the privileges and immunities accorded by the Netherlands under Article 10 (1) of the Seat Agreement. Article 10 (3), (4), (5) and (6) of the Seat Agreement shall equally apply.

Munich, 10.02.2016

Benoît Battistelli
President of the European Patent Office

Agreement between the European Patent Organisation and the Republic of Austria concerning the headquarters of the Vienna sub-office of the European Patent Office

THE EUROPEAN PATENT ORGANISATION

and

THE REPUBLIC OF AUSTRIA,

Having regard to the Convention on the Grant of European Patents of

5 October 1973,

Having regard to the Protocol on Privileges and Immunities of the European Patent Organisation,

Having regard to Article 3 of the Agreement between the European Patent Organisation and the Republic of Austria on the integration of the International Patent Documentation Centre (INPADOC) into the European Patent Office,

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Agreement:

(a) "Organisation" means the European Patent Organisation;

(b) "Office" means the European Patent Office;

(c) "Contracting State" means any State party to the Convention on the Grant of European Patents of 5 October 1973;

(d) "sub-office" means the sub-office of the European Patent Office established in Vienna by the European Patent Organisation in accordance with Article 3 of the Agreement between the European Patent Organisation and the Republic of Austria on the integration of the International Patent Documentation Centre (INPADOC) into the European Patent Office;

(e) "employee of the sub-office" means any member of the European Patent Office's staff employed at the sub-office other than persons there on temporary assignments;

(f) "official activities" means any activities strictly necessary for the administrative and technical work which the European Patent Organisation is required to perform by the Convention on the Grant of European Patents of 5 October 1973.

Article 2
Headquarters

(1) The permanent headquarters of the sub-office shall be in the precinct designated for that purpose, with the agreement of the Republic of Austria, the Organisation shall have the right to occupy such a precinct. The precinct shall be defined and details of its use laid down in an additional agreement to be concluded between the Republic of Austria and the Organisation.

(2) The headquarters of the sub-office may only be transferred elsewhere with the agreement of the Republic of Austria. Temporary transfer of the headquarters elsewhere shall not constitute transfer of the permanent headquarters unless the Organisation takes an express decision to that effect. Temporary transfer of the headquarters shall also require the agreement of the Republic of Austria.

(3) Any building in or outside Vienna used with the agreement of the Republic of Austria for meetings convened by the Organisation shall be deemed temporarily to form part of the headquarters precinct.

(4) In connection with its official activities the Organisation shall have the right to establish and operate with the agreement of the Republic of Austria one or more radio transmitters and receivers and other telecommunication facilities.

(5) The Organisation may establish and operate research, documentation and other technical facilities of any type. These facilities shall be subject to appropriate safeguards which, in the case of facilities which might create hazards to health or safety or interfere with property, shall be agreed with the Republic of Austria.

(6) The facilities provided for in paragraphs 4 and 5 may, to the extent necessary for efficient operation, be established and operated outside the head-quarters precinct. The Republic of Austria shall, at the request of the Organisation, take steps, in accordance with such provisions and arrangements as may be agreed upon in an additional agreement, to facilitate the acquisition or use by the Organisation of appropriate premises for such purposes and for the inclusion of such premises in the headquarters precinct.

Article 3
Inviolability

(1) The headquarters precinct shall be inviolable. Authorities of the Republic of Austria shall not enter it except with the consent of, and on terms laid down by, the head of the sub-office. Such consent shall be assumed in the case of fire or other disaster requiring prompt protective action.

(2) Instruments issued by Austrian authorities may be served in the headquarters precinct.

(3) The Organisation shall prevent the headquarters precinct from being used as a refuge by persons who are avoiding arrest under any law of the Republic of Austria, who are sought by the latter for extradition to another country, or who are endeavouring to avoid service of legal process.

Article 4[1]
Immunity

(1) Within the scope of its official activities the Organisation shall have immunity from jurisdiction and enforcement, except

(a) to the extent that the Organisation shall have expressly waived such immunity in a particular case;
(b) in the case of a civil action brought by a third party for damage resulting from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Organisation, or in respect of an infringement of regulations governing the keeping, operation and use of motor vehicles;
(c) in the case of attachment, pursuant to a decision by the administrative or judicial authorities, of the salary, emoluments or indemnities owed by the Organisation to an employee, unless the Organisation informs the competent authorities within 14 days of the date on which it is notified of said decision that it does not waive its immunity.

(2) Without prejudice to paragraphs 1 and 3, the property and assets of the Organisation, wherever situated, shall be immune from any form of requisition, confiscation, expropriation and sequestration.

(3) The property and assets of the Organisation shall also be immune from any form of administrative or provisional judicial constraint, except insofar as may be temporarily necessary in connection with the prevention of, and investigation of, accidents involving motor vehicles belonging to or operated on behalf of the Organisation.

Article 5
Protection of the headquarters precinct

The Republic of Austria shall take all appropriate measures to protect the headquarters precinct from forcible entry and damage.

Article 6
Public services in the headquarters precinct

(1) The Republic of Austria shall take all appropriate measures to ensure that the headquarters precinct is supplied with the necessary public services.

(2) The head of the sub-office shall, upon request, make suitable arrangements to enable duly authorised representatives of the appropriate public service bodies to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the headquarters precinct in such a manner as not to disrupt the official activities unduly.

1 See Circular No. 132 in Part 1b.

Article 7
Archives

The archives of the Organisation and any documents and data carriers belonging to or held by it shall be inviolable.

Article 8
Data protection

The Organisation shall ensure that persons whose data are processed electronically are able to enforce their rights vis-à-vis the Organisation in matters of data protection at least to the extent provided for in the European Convention of 28 January 1981 for the Protection of Individuals with Regard to Automatic Processing of Personal Data.

Article 9
Communications, publications

(1) The Republic of Austria shall ensure that the Organisation is able to send and receive communications in connection with its official activities without let or hindrance. In its communications with the sub-office or with an employee in the headquarters precinct the Organisation may make use of any suitable means, including couriers and coded messages, which shall enjoy the same privileges and immunities as diplomatic couriers and bags.

(2) The Republic of Austria recognises the right of the Organisation, within the scope of its official activities and without let or hindrance, to publish in the Republic of Austria printed matter, material recorded on data carriers or disseminated via data transmission systems, and to broadcast. It is, however, understood that the Organisation shall comply with any laws of the Republic of Austria, or any international copyright conventions to which the Republic of Austria is a party.

Article 10
Freedom from taxation and customs duties

(1) Within the scope of its official activities the Organisation and its assets, income and other property shall be exempt from all forms of taxation; such tax exemption shall not, however, extend to the owner or lessor of any property rented by the Organisation.

(2) Indirect taxes included in the price of goods or services supplied to the Organisation within the scope of its official activities, including leasing and rental charges, shall be refunded to the Organisation insofar as Austrian law makes provision to that effect for foreign missions.

(3) All transactions to which the Organisation is a party and all documents recording such transactions shall be exempt from all taxes, recording charges and court fees.

(4) Articles imported or exported by the Organisation within the scope of its official activities shall be exempt from customs duties and other charges provided these are not simply charges for public utility services, and from economic prohibitions and restrictions on imports and exports.

(5) The Organisation shall be exempt from customs duties and other charges, provided these are not simply charges for public utility services, and from economic prohibitions and restrictions on the importation of vehicles, including spare parts, required for the exercise of its official activities.

(6) Articles imported in accordance with paragraphs 4 and 5 shall not be ceded or transferred by the Organisation to other persons in the Republic of Austria within two years of their importation or acquisition; otherwise the charges waived on importation shall be payable. This shall not apply to articles intended for further dissemination within the framework of the Organisation's technical work.

(7) The Organisation shall be exempt from the obligation to pay employer's contributions to the family benefit equalisation fund.

Article 11
Financial facilities

Without being subject to controls or regulations of any kind, the Organisation may without let or hindrance and for official purposes:

(a) purchase any currencies through authorised channels, and hold and dispose of such currencies;

(b) maintain accounts in any currency;

(c) purchase funds and securities through authorised channels, and hold and dispose of such funds and securities;

(d) transfer its funds, securities and currency to or from the Republic of Austria, to or from any other country, or within the Republic of Austria; and

(e) raise funds on the basis of its borrowing power or in any other manner it considers desirable, with the proviso that the Organisation shall obtain the consent of the Republic of Austria to the raising of funds within the latter's territory.

Article 12
Social security

Sub-office and Office employees shall be exempt from the application of Austrian social security laws provided they belong to the Organisation's social security scheme.

Article 13
Entering and leaving the territory, transit and residence

(1) The Republic of Austria shall take all necessary measures to facilitate the entry into, and sojourn in the Republic of Austria of the persons listed below, shall allow them to leave Austrian territory without let or hindrance and ensure that they can travel unimpeded to or from the headquarters precinct, affording them any necessary protection when so travelling:

(a) representatives of Contracting States, alternate representatives, their advisers and experts;
(b) representatives of States or institutions invited by the Organisation;
(c) employees of the Office;
(d) employees of the sub-office and members of their families forming part of their household;
(e) experts within the meaning of Article 17.

(2) Visas which may be required by persons referred to in this Article shall be granted free of charge and as promptly as possible.

(3) No person referred to in paragraph 1 shall be required by the Republic of Austria to leave Austrian territory except in the event of an abuse of the right of residence, in which case the following procedure shall apply:

(a) the institution of proceedings to require any such person to leave Austrian territory shall require the prior approval of the Federal Minister for Foreign Affairs of the Republic of Austria;
(b) in the case of a person mentioned in paragraph 1a), such approval shall be given only after consultation with the Government of the Contracting State concerned;
(c) in the case of a person mentioned in paragraphs 1b) to e) such approval shall be given only after consultation with the head of the sub-office, and if expulsion proceedings are instituted against any such person the head of the sub-office shall have the right to appear or to be represented in such proceedings together with the person against whom such proceedings are instituted;
(d) the head of the sub-office and his deputy shall not be required to leave Austrian territory otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of the staffs of heads of diplomatic mission accredited to the Republic of Austria.

(4) The Republic of Austria shall be entitled to demand reasonable evidence to establish that persons claiming the rights granted by this Article fall within the categories described in paragraph 1, or to demand the reasonable application of quarantine and health regulations.

Article 14
Employees of the sub-office

(1) Employees of the sub-office shall enjoy within and with respect to the Republic of Austria the following privileges and immunities:

(a) immunity from jurisdiction in respect of acts, including words written and spoken, done in the exercise of their duties; this immunity shall not apply, however, in the case of a motor traffic offence committed by an employee of the sub-office, nor in the case of damage caused by a motor vehicle belonging to or driven by an employee; this immunity shall continue to apply even after the persons concerned have ceased to be employees of the sub-office;
(b) inviolability for all their official papers, data carriers and documents;
(c) exemption from taxation in respect of the salaries, emoluments and indemnities paid to them by the Office in connection with their service with the Office; this exemption shall extend also to assistance given to members of the employees' families;
(d) exemption from any form of taxation on income derived by them from sources outside the Republic of Austria;
(e) exemption from immigration restrictions and from registration formalities for themselves and members of their families forming part of their household;
(f) freedom to acquire or maintain within the Republic of Austria foreign securities, foreign currency accounts and other movable and, under the same conditions as Austrian nationals, immovable property, and upon termination of their employment with the Organisation, the right to take out of the Republic of Austria through authorised channels, without reservation or restriction, their funds in the same currency and up to the same amounts as those brought in;
(g) the right to import for personal use, free of duty and other charges, provided these are not simply charges for public utility services, and exempt from economic import prohibitions and restrictions:

(i) their furniture and effects in one or more separate consignments;
(ii) not more than two motor cars at the time of their move upon first taking up their duties.

(2) Employees of the sub-office who are not Austrian nationals shall not qualify for family burdens equalisation benefit, nor shall their spouses or minor children forming part of the employee's household.

Article 15
Head of the sub-office

In addition to the privileges and immunities specified in Article 14, the head of the sub-office and his deputy shall, provided they are not Austrian nationals and are not permanently resident in the Republic of Austria, be accorded the

privileges and immunities, exemptions and facilities accorded to heads of diplomatic missions or members of such missions having comparable rank.

Article 16
Employees of the Office

(1) For the duration of a stay on official business, employees of the Office shall enjoy within and with respect to the Republic of Austria the following privileges and immunities:

(a) immunity from jurisdiction in respect of acts, including words written and spoken, done in the exercise of their duties; this immunity shall not apply, however, in the case of a motor traffic offence committed by an employee of the Office, nor in the case of damage caused by a motor vehicle belonging to or driven by an employee. This immunity shall continue to apply even after the persons concerned have ceased to be employees of the Office;
(b) inviolability for all their official papers, data carriers and documents;
(c) exemption from taxation in respect of salaries, emoluments and indemni-ties paid to them by the Office in connection with their service with the Office; this exemption shall extend also to assistance given to members of the employees' families;
(d) exemption from any form of taxation on income derived by them from sources outside the Republic of Austria;
(e) exemption from immigration restrictions and from registration formalities.

(2) All former employees of the Office shall be exempt from national income tax on pensions paid to them by the Organisation. However, the Republic of Austria shall retain the right to take these pensions into account when assessing the amount of tax to be levied on income from other sources.

Article 17
Experts

(1) Experts performing duties on behalf of, or carrying out missions for, the Organisation shall enjoy the following privileges and immunities, to the extent that they are necessary for the carrying out of their duties including when they travel in connection with such duties and missions:

(a) immunity from jurisdiction in respect of acts, including words written and spoken, done in the exercise of their duties; this immunity shall not apply, however, in the case of a motor traffic offence committed by an expert, nor in the case of damage caused by a motor vehicle belonging to or driven by him; experts shall continue to enjoy this immunity even after they have ceased to be employed by the Organisation;
(b) inviolability for all their official papers, data carriers and documents;
(c) the exchange facilities necessary for the transfer of their emoluments and expenses.

(2) Where the incidence of any form of taxation depends upon residence, periods during which the persons referred to in paragraph 1 may be present in the Republic of Austria for the discharge of their duties shall not be considered as periods of residence. In particular, such persons shall be exempt from taxation on their emoluments and expenses paid by the Organisation during such periods of duty.

Article 18
Notification of appointments, identity cards

(1) The sub-office shall inform the Republic of Austria when an employee takes up or relinquishes his duties.

(2) The Republic of Austria shall furnish employees of the sub-office and members of their families forming part of their household, provided they are not Austrian nationals or persons who are permanently resident in the Republic of Austria, with an identity card bearing the photograph of the holder. This card shall serve to identify the holder vis-à-vis the Austrian authorities.

(3) The Organisation may issue an identity card bearing the photograph of the holder to Austrian citizens and persons who at the time of taking up their duties with the sub-office are permanently resident in the Republic of Austria.

Article 19
Austrian citizens and persons permanently resident in the Republic of Austria

Austrian citizens and persons who at the time of taking up their duties are permanently resident in the Republic of Austria shall enjoy only the privileges and immunities specified in Article 12, Article 14, paragraphs 1a), b) and c), Article 16, paragraphs 1a), b) and c) and 2, and Article 17.

Article 20
Purpose of privileges and immunities

(1) The privileges and immunities provided for in this Agreement are not designed to give to employees of the sub-office or experts personal advantage. They are granted solely to ensure that the Organisation is able to perform its official activities unimpeded at all times and that the persons to whom they are accorded have complete independence.

(2) The Organisation has the duty to waive immunity where it considers that such immunity would impede the normal course of justice and that it can be waived without prejudicing the interests of the Organisation.

Article 21
Settlement of disputes

Any dispute between the Organisation and the Republic of Austria concerning the interpretation or application of this Agreement or of any additional agreement, or any question affecting the headquarters precinct or relations between the Organisation and the Republic of Austria, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators: one to be chosen by the Organisation, one to be chosen by the Republic of Austria and the third, who shall be chairman of the tribunal, to be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the third within six months of their appointment, he shall be chosen by the President of the International Court of Justice at the request of the Organisation or the Republic of Austria.

Article 22
Entry into force

This Agreement shall enter into force at the same time as the Agreement between the European Patent Organisation and the Republic of Austria on the integration of the International Patent Documentation Centre (INPADOC) into the European Patent Office.

Article 23
Termination

This Agreement shall cease to be in force:

(a) by mutual consent of the Organisation and the Republic of Austria, and

(b) if the sub-office is removed from the territory of the Republic of Austria, except for such provisions as may be applicable in connection with the orderly termination of the sub-office's operations and the disposal of its property therein.

Done at Vienna, on 2nd July 1990

in two originals in the English, French and German languages, each text being equally authentic.

For the European Patent Organisation

For the Republic of Austria

ADDITIONAL AGREEMENT TO THE AGREEMENT BETWEEN THE REPUBLIC OF AUSTRIA AND THE EUROPEAN PATENT ORGANISATION CONCERNING THE HEADQUARTERS OF THE VIENNA SUB-OFFICE OF THE EUROPEAN PATENT OFFICE

The following area shall constitute the permanent headquarters precinct of the Vienna sub-office of the European Patent Office as provided for in Article 2, paragraph 1, of the Agreement between the Republic of Austria and the European Patent Organisation concerning the headquarters of the Vienna sub-office of the European Patent Office of 2 July 1990:

1030 Vienna, Rennweg 12

(a) courtyard section

- basement floors 1 and 2
- ground floor
- upper floors 1-4

(b) garden section

- basement
- ground floor
- upper floor

(c) connection between courtyard and garden sections

These provisions shall enter into force on 27 November 2000.

Financial Regulations and implementing rules

Financial Regulations[1]

1 English version revised by decision of the Administrative Council CA/D 11/24 to introduce gender-neutral language. The German and French version remain unchanged.

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THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33, paragraph 2 a), and Article 50 thereof,

HAS ADOPTED THESE FINANCIAL REGULATIONS[1]:

TITLE I
GENERAL PROVISIONS, DEFINITIONS[2]

Article 1[3]

(1) These Regulations contain the provisions other than those laid down in the European Patent Convention (hereinafter referred to as "the Convention") governing the finances and budget of the European Patent Organisation (hereinafter referred to as "the Organisation").

(2)[4] The provisions of these Financial Regulations shall apply to the Reserve Funds for Pensions and Social Security of the Organisation except where the Fund Regulations otherwise provide.

(3)[5] The generally accepted accounting principles referred to in Article 50(g) of the Convention shall be the International Financial Reporting Standards as provided by the International Accounting Standards Board.

(4)[6] For the purpose of these Financial Regulations:

(a) "signature" includes an electronic signature, ie data in electronic form which is attached to or logically associated with other electronic data (data message) and which serves as a method of authenticating the signatory in relation to the data message and indicates his or her approval of the information contained in the data message.

(b) "voucher" includes an electronic document, ie data in electronic form which must be capable of being printed as paper and transferred to archival media without loss of content or material alteration.

(c)[7] "Authorising officer" means the President, the principal authorising officers and the authorising officers by sub-delegation.

(d)[8] "Principal authorising officer" means the authorising officers to whom the President has delegated his powers of authorising expenditure and issuing receipt orders pursuant to Article 33(1).

1 Decision of the Administrative Council CA/D 7/91.
2 Amended by decision of the Administrative Council CA/D 32/01.
3 Amended by decision of the Administrative Council CA/D 5/11.
4 Amended by decision of the Administrative Council CA/D 7/03.
5 Amended by decision of the Administrative Council CA/D 5/11.
This decision shall enter into force on 27 October 2011. It shall apply with retroactive effect from 1 January 2011.
6 Inserted by decision of the Administrative Council CA/D 32/01.
7 Inserted by decision of the Administrative Council CA/D 7/03.
8 Inserted by decision of the Administrative Council CA/D 7/03.

(e)[1] "Authorising officer by sub-delegation" means the authorising officers to whom the principal authorising officers have sub-delegated their powers of signature pursuant to Article 33(3).

(f)[2] "budget holder" means the principal authorising officers or the authorising officers by sub-delegation in the field of procurement in accordance with Article 22a, paragraph 2.

(g)[3] "procurement officer" means the principal authorising officer or the authorising officers by sub-delegation in the field of procurement in accordance with Article 22a, paragraph 3.

Article 2[4]

The financial administration of the Organisation shall be conducted in accordance with the principles of economy and sound financial management. Without prejudice to the aforementioned principles and where applicable, ethical business practices, including environmental sustainability and social responsibility, should also be taken into account.

1 Inserted by decision of the Administrative Council CA/D 7/03.
2 Inserted by decision of the Administrative Council CA/D 5/10.
3 Inserted by decision of the Administrative Council CA/D 5/10.
4 Amended by decision of the Administrative Council CA/D 4/22.

TITLE II
BUDGET AND FINANCE COMMITTEE

Article 3

A Budget and Finance Committee (hereinafter referred to as "the Committee") is hereby set up; its composition and duties are defined below.

Article 4

(1)[1] The Committee shall be composed of one representative and one alternate representative of each Contracting State.

(2) However, when there are at least eight Contracting States, the Administrative Council of the Organisation (hereinafter referred to as "the Administrative Council") may limit the size of the Committee, which shall however always be composed of representatives of more than half the Contracting States.

Article 5

The procedural rules applicable to the Administrative Council shall apply mutatis mutandis to the Committee. However, these Regulations or the Committee may lay down different rules, except in the case of those provisions of the Rules of Procedure of the Administrative Council which expressly apply to subsidiary bodies.

Article 6

In addition to the tasks entrusted to it under these Regulations, the Committee shall be consulted in advance on all questions submitted to the Administrative Council in which the financial implications have to be taken into consideration.

Article 7

The Administrative Council may authorise the Committee to take decisions on its behalf in appropriate cases.

Article 8

The Committee may require that it be furnished with any information or evidence it considers necessary concerning financial matters for which it is responsible.

1 Amended by decision of the Administrative Council CA/D 20/92.

TITLE III
PAYMENTS AND SPECIAL FINANCIAL CONTRIBUTIONS BY THE CONTRACTING STATES

Article 9

The payments provided for in Article 39 of the Convention shall be made, in respect of the renewal fees received during each quarter, before the end of the month following the quarter in question.

Article 10

The special financial contributions referred to in Article 40, paragraph 3, of the Convention, shall be paid as follows:

(a) half

- before 20 January of the accounting period concerned if the budget has been adopted before 1 January,
- within 30 days of the budget being adopted where this has not occurred before 1 January, in which case the special financial contributions referred to in Article 11 below shall be deducted from said payment;

(b) the balance before 1 June of the accounting period concerned.

Article 11

The special financial contributions provided for in Article 47, paragraph 4, of the Convention, shall be paid before the first day of the month to which they apply, save those for the month of January, which shall be paid before 20 January.

Article 11a[1]

The expenses incurred by the Organisation under Article 146 of the Convention shall, for each budget year, be calculated by means of the general cost accounting method in use at the Office.

Article 12

If an amending or supplementary budget is adopted during an accounting period in accordance with Article 46 of the Convention the Contracting States shall make available to the Organisation any additional payments or additional special financial contributions which may be necessary, within 30 days of the adoption of the said budget.

Article 13

After the adoption of the budget, the President of the European Patent Office (hereinafter referred to as "the President") shall communicate to the Contracting States:

1 Inserted by decision of the Administrative Council CA/D 10/17.

(a) the proportion of the renewal fees and the minimum provided for in Article 39 of the Convention,
(b) the amount of any special financial contributions that may be payable pursuant to Article 40 of the Convention.

Article 14

(1) In addition to the initial contribution provided for in Article 170 of the Convention, States for which ratification of the Convention or accession thereto takes effect during an accounting period in which special financial contributions are payable shall also pay a special financial contribution fixed in accordance with Article 40, paragraphs 3 and 4, of the Convention.

(2) The amount of the initial contribution and of any special financial contribution shall be fixed by the Administrative Council after obtaining the opinion of the Committee.

(3) The initial contribution and any special financial contribution shall be payable within 30 days of the date on which ratification or accession takes effect for the State concerned unless the Administrative Council decides otherwise after obtaining the opinion of the Committee.

Article 15

(1)[1] The payments referred to in Article 39 of the Convention shall be made by the Contracting States to one of the Organisation's bank accounts.

(2)[2] The special financial contributions of the Contracting States determined in the budget shall be expressed and paid in euro unless the Administrative Council decides otherwise[3].

(3)[4] The President shall draw up quarterly and submit to the Administrative Council a budget implementation statement, a statement of comprehensive income, and a statement setting out the payments made as well as the outstanding payments by the Contracting States under Article 39 of the Convention and special financial contributions paid by them under Articles 40, 41 and 47, paragraph 4, of the Convention.

Article 16

(1)[5] The interest rate provided for in Article 40, paragraph 6, of the Convention shall be fixed by the Administrative Council and shall be equivalent to a weighted average of the bond interest rates supplied by the Contracting States for each accounting period.

1 Amended by decision of the Administrative Council CA/D 16/12.
2 The Budget and Finance Committee has been authorised to decide on behalf of the Administrative Council (CA/D 23/01).
3 Amended by decision of the Administrative Council CA/D 3/01.
4 Amended by decision of the Administrative Council CA/D 8/10.
5 The Budget and Finance Committee has been authorised to decide on behalf of the Administrative Council (CA/D 23/01).

(2) For the purposes of calculating the weighted average referred to in paragraph 1 each Contracting State shall, not later than 31 January of each year, supply the President with its bond interest rate representing the average cost to it in the previous accounting period of raising the money paid in the form of special financial contributions and advances.

(3) The weighted average referred to in paragraph 1 shall be calculated by multiplying the bond interest rate supplied by each State in accordance with paragraph 2 by the percentage obtained for that State in accordance with Article 40, paragraphs 3 and 4, of the Convention when establishing the scale for the special financial contributions payable in the preceding accounting period, adding up the resulting products and expressing the total as a percentage.

(4)[1] The interest rate fixed by the Administrative Council shall be applied to special financial contributions and advances made during the preceding accounting period and to such amounts carried forward from previous accounting periods, together with any interest not yet paid.

(5)[2] The interest rate fixed by the Administrative Council shall be applied to the special financial contributions and advances with effect from the date on which they are credited to an account of the Organisation.

Article 17

(1) Interest on amounts payable under Articles 40, 41 and 47 of the Convention remitted late shall be calculated at the latest rate fixed in accordance with Article 16 for special financial contributions and advances. Interest on amounts payable in respect of renewal fees pursuant to Article 39 of the Convention remitted late shall be calculated in each accounting period at the average rate obtained by the European Patent Office (hereinafter referred to as "the Office") on sums invested in time deposit accounts the previous year.

(2) The interest rates provided for in paragraph 1 shall be applied to amounts due, which have not been credited to an account of the Organisation by the final date for payment laid down in these Regulations, for the period extending from that date to the date on which they are so credited.

(3)[3] Payments in settlement of the interest in accordance with paragraph 2 shall be due within 30 calendar days.

1 The Budget and Finance Committee has been authorised to decide on behalf of the Administrative Council (CA/D 23/01).
2 The Budget and Finance Committee has been authorised to decide on behalf of the Administrative Council (CA/D 23/01).
3 Amended by decision of the Administrative Council CA/D 2/11.

TITLE IV
BUDGET

Section I
Definitions and general principles

Article 18

The budget shall be the instrument whereby the Administrative Council determines:

(a) the income estimated and the commitment and payment appropriations necessary to the functioning of the Organisation for the accounting period;

(b) the proportion of the renewal fees and the minimum provided for in Article 39 of the Convention;

(c) the amounts of the special financial contributions provided for in Article 40 of the Convention.

Article 19

(1) Commitment appropriations shall constitute the maximum expenditure which the President may commit during the current accounting period. In certain cases specified in the budget, commitments may extend beyond that accounting period.

(2)[1] Payment appropriations shall constitute the maximum expenditure which the President may authorise and pay during the accounting period in respect of commitments entered into during that accounting period.

Article 20[2]

All income shall be available to cover all expenditure. However, income intended for a specific purpose, such as revenue from foundations, subventions, gifts and bequests, shall be used as stipulated.

Article 21[3]

Every item of income or expenditure must be attributed to a budget heading.

Article 22

(1) For the purposes of implementing the budget the principle of separation of powers shall operate between authorising and accounting officers.

1 Amended by decision of the Administrative Council CA/D 2/11.
2 Amended by decision of the Administrative Council CA/D 10/91 and CA/D 24/01.
3 Amended by decision of the Administrative Council CA/D 16/04.

(2)[1] The management of commitment and payment appropriations shall be the responsibility of the authorising officer, who shall have sole power to commit expenditure and issue receipt orders and payment orders.

(3) Responsibility for executing receipt and payment orders shall lie with the accounting officer.

(4) The duties of authorising officer shall be incompatible with those of accounting officer.

Article 22a[2]

(1) For procurement, the duties of authorising officer are divided between the budget holder and the procurement officer, unless otherwise decided by the President in view of the special needs of the operational area concerned.

(2)[3] The budget holder shall be responsible for the management of budget appropriations, including the allocation of funds to activities, the commitment and transfer of funds, the approval of the award of contracts, the validation of delivered goods, services and work, and the issuance of receipt and payment orders.

(3)[4] The procurement officer shall be responsible for conducting the procurement procedures, including the commitment of expenditure chargeable to the Organisation.

Section II
Structure, presentation and adoption of the budget

Article 23

The President shall prepare the draft budget of the Organisation in accordance with these Regulations.

Article 24

The budget shall be drawn up in euro[5].

Article 25[6]

(1) The draft budget shall contain for the budget year:

(a) the authorisation budget, including the estimated income and the maximum expenditure appropriations for operating and capital transactions in respect of which the President requests authorisation for the implementation of the budget as further

1 Amended by decision of the Administrative Council CA/D 11/24.
2 Inserted by decision of the Administrative Council CA/D 5/10.
3 Amended by decision of the Administrative Council CA/D 11/23.
4 Amended by decision of the Administrative Council CA/D 11/23.
5 Amended by decision of the Administrative Council CA/D 3/01.
6 Amended by decision of the Administrative Council CA/D 21/13.

defined in Title IV, Section III. The appropriations shall be classified by type and broken down into titles, chapters and articles;
(b) the plan statement of comprehensive income;
(c) the plan statement of financial position.

(2) The draft budget shall be accompanied by:

(a)[1,2] a table showing the permanent posts in the current budget, together with the permanent posts proposed in the draft budget, listed by job group and grade. Grades may be grouped together under the conditions laid down in the Service Regulations for permanent and other employees of the Office. In deviation from the table of posts the President is authorised to delete a number of redundant vacant permanent posts in the job groups 5 and 6 up to the yearly limit specified in Annex I and to replace these with a corresponding number of permanent posts in job groups 2 to 4;
(b) estimates for the authorisation budget, the plan statement of comprehensive income and the plan statement of financial position for the four subsequent years.

Article 26[3]

The following shall be furnished in support of the draft budget:

(1) a general explanatory memorandum concerning the development of income, expenditure, assets and liabilities of the Organisation;

(2) as regards personnel,

a) an establishment plan per main administrative unit, showing the posts approved in the current budget and the number of staff in post when the budget is drawn up, broken down by job group and grade;
b) the proposals for new posts or for changes in existing posts;

(3) specific explanations of the main changes proposed in the budget, compared with income and expenditure of the last closed accounting period and the current year's budget;

(4) an analysis of operating income and expenditure according to products and services for the budget year, as well as for the last closed accounting period, as set out in Annex II.

Article 27[4]

1 Amended by decision of the Administrative Council CA/D 10/14.
2 Modified by decision of the Administrative Council CA/D 2/18.
3 Amended by decision of the Administrative Council CA/D 11/15.
4 Deleted by decision of the Administrative Council CA/D 16/04.

Article 28[1]

(1) The President shall submit the draft budget and the annexed documents to the Administrative Council and the Committee with due regard to the deadlines established in the Rules of Procedure of the Administrative Council, and in any case not later than 15 October.

(2) The Committee shall communicate its opinion on the draft budget and the annexed documents to the Administrative Council as soon as possible following its autumn meeting, and in any case not later than 15 November.

Article 29[2]

Before the beginning of the budget year, the Administrative Council shall adopt the authorisation budget referred to in Article 25, paragraph 1(a), and the table of posts referred to in Article 25, paragraph 2(a), and shall approve the plan financial statements as referred to in Article 25, paragraph 1(b) and (c), and the estimates referred to in Article 25, paragraph 2(b).

Article 30[3]

(1) If, at the beginning of the accounting period, the Budget has not been adopted by the Administrative Council, expenditure may be effected under the conditions for a provisional budget, as laid down in Article 47 of the Convention.

(2) At the request of the President, the Administrative Council may:

   (a) authorise at any one time accrued expenditure up to a maximum of three provisional twelfths;
   (b) authorise at any one time accrued expenditure in excess of the ceiling specified under (a) above for obligations entered into during the previous accounting period. Such cases shall be explained in a reasoned request, and in accordance with Article 76, paragraph 3, the Board of Auditors is invited to report on their implementation.

(3) The provisional budget shall be implemented under the same conditions as the budget adopted for the preceding accounting period.

Article 31

(1) If necessary, the President may submit draft amending or supplementary budgets in accordance with the same procedure and in the same form as the original draft budget. They shall be accompanied by a statement explaining the amendments by reference to the budget amended and shall be submitted to the Administrative Council and the Committee not later than the final dates for submission of the draft budget for the following accounting period.

1 Amended by decision of the Administrative Council CA/D 7/14.
2 Amended by decision of the Administrative Council CA/D 21/13.
3 Amended by decision of the Administrative Council CA/D 16/12.

(2) The Administrative Council shall discuss such budgets, having due regard to their urgency, and shall take its decision in accordance with the same conditions as those applicable to the original budget.

Section III
Implementation of the budget

Chapter I
General provisions

Article 32

The adoption of the budget by the Administrative Council shall constitute an obligation on the part of the Contracting States to make the requisite advances, contributions and payments and shall empower the President, acting in accordance with any special conditions laid down by the Administrative Council:

(a)[1] to receive the income provided for in the budget and any other funds which fall due to the Organisation in connection with its activity. Revenue in the form of gifts and bequests or voluntary contributions must first be approved by the Administrative Council after consulting the Committee;

(b) to commit expenditure for which commitment appropriations are available, within the limits of such appropriations;

(c) to commit, authorise and pay expenditure for which payment appropriations are available, within the limits of such appropriations.

Article 33[2]

(1)[3] The President may delegate to principal authorising officers appointed by him his powers of authorising expenditure and issuing receipt orders.[4]

For procurement, powers shall be delegated separately to principal authorising officers acting as budget holders and to the principal authorising officer acting as procurement officer, unless an exception has been made under Article 22a, paragraph 1.

(2) Principal authorising officers shall act within the limits of the powers delegated to them by the President.

(3) With prior approval of the President, principal authorising officers may subdelegate their powers of signature to other employees.

1 The Budget and Finance Committee has been authorised to decide on behalf of the Administrative Council (CA/D 23/01).
2 Revised by decision of the Administrative Council CA/D 9/05.
3 Amended by decision of the Administrative Council CA/D 5/10.
4 See Tender guidel. Anx. I

(4) Authorising officers by sub-delegation shall act within the limits of the powers delegated to them by the principal authorising officers.

Article 34[1]

(1)[2] The President, and principal authorising officers acting within the limits of the powers delegated to them under Article 33(2), may transfer appropriations within a chapter.

(2)[3] The President, and principal authorising officers acting within the limits of the powers delegated to them under Article 33(2), may transfer appropriations from one chapter to another, provided the amounts under the chapters involved are increased or reduced by not more than 20%.

(3)[4] The prior approval of the Committee shall be required for all other transfers. However, the Committee may confine itself to delivering an opinion if it considers that the transfer must be submitted to the Administrative Council for approval.

Article 35[5]

(1)[6] Approved appropriations shall be used only after funds have been duly committed and only after a payment order has been duly issued, except for salaries, allowances, pensions and general payroll costs.

(2) Income and expenditure during the accounting period shall be recorded in the accounts and shall be presented in the budget implementation statement.

(3) The budget implementation statement shall include:

(a) income and expenditure in like form to that adopted for the budget, so framed as to enable comparison with the budget estimates;
(b) the transfer of appropriations as defined in Article 34.

Article 36[7]

At the end of each accounting period, unused commitment appropriations and payment appropriations shall be cancelled.

Article 37[8]

Expenditure chargeable to future accounting periods shall be committed in

1 Revised by decision of the Administrative Council CA/D 9/05.
2 The Budget and Finance Committee has been authorised to decide on behalf of the Administrative Council (CA/D 23/01).
3 Amended by decision of the Administrative Council CA/D 24/08.
4 Amended by decision of the Administrative Council CA/D 17/09.
5 Amended by decision of the Administrative Council CA/D 16/04.
6 Amended by decision of the Administrative Council CA/D 8/10.
7 Amended by decision of the Administrative Council CA/D 2/11.
8 Amended by decision of the Administrative Council CA/D 11/16.

advance, provided it relates to firm legal obligations and an expenditure type or purpose approved in the current budget.

Chapter II
Liability of authorising and accounting officers

Article 38

(1) Any authorising officer who establishes a debt to be recovered or a receipt order, commits expenditure or signs a payment order without complying with these Regulations or the rules for their implementation shall be liable to disciplinary action and, where applicable, to payment of compensation. The same shall apply to any authorising officer who fails to draw up an instrument establishing a debt to be recovered or, without good reason, neglects to issue a receipt order or is dilatory in doing so.

(2)[1] The liability of authorising officers by sub-delegation to payment of compensation and to disciplinary action is subject to the terms and conditions of the Service Regulations.

Without prejudice to any disciplinary action and to their right to change any sub-delegation of signature, the principal authorising officers may, at their discretion, revoke temporarily or definitively the delegated powers of signature.

(3)[2] The principal authorising officers are responsible for the choice and supervision of their respective authorising officers by sub-delegation.

(4)[3] The President and the principal authorising officers shall, as far as possible, insure themselves, through the Organisation, against the risk of liability to pay compensation. The cost of such insurance shall be borne by the Organisation.

Article 39

(1)[4] Any accounting officer who fails to keep safe the monies, securities and documents in his charge or to execute correctly orders received by him in respect of the use and administration of bank accounts shall be liable to disciplinary action and to payment of compensation.

(2) Subject to Article 53, paragraph 3, any accounting officer shall be liable to disciplinary action and, where applicable, to payment of compensation in respect of any payment made by him:

(a) if he fails to comply with these Regulations or the rules for their implementation;

1 Inserted by decision of the Administrative Council CA/D 7/03.
2 Inserted by decision of the Administrative Council CA/D 7/03.
3 Inserted by decision of the Administrative Council CA/D 7/03.
4 Amended by decision of the Administrative Council CA/D 11/16.

(b) if the payment does not correspond to the amount shown in the payment order;
(c) if the payment is made to a party other than the rightful payee.

(3) Accounting officers shall as far as possible insure themselves, through the Organisation, against the risk of liability to pay compensation. The cost of such insurance shall be borne by the Organisation.

Chapter III
Receipts

Article 40[1]

(1) The authorising officer shall issue receipt orders in respect of all amounts owed to the Organisation, establishing the existence and amount of the debt and confirming that the order is in compliance with the financial provisions of the Organisation. The receipt order shall state in particular:

(a) the date of issue of the receipt order;
(b) the accounting date on which the receipt is to be charged;
(c) the exact budget heading;
(d) the amount owing, specifying the currency(ies);
(e) the name and address of the debtor;
(f) the purpose of the receipt;
(g) the due date for payment.

(2) Receipt orders shall be forwarded to the accounting officer for recovery.

(3) No receipt order shall be issued in respect of receipts not based on a debt.

Article 40a

(1) If the authorising officer requests the accounting officer not to proceed with recovery of a duly established debt, they shall provide the accounting officer with a reasoned proposal for cancellation.

(2) The accounting officer may refuse to act on a cancellation proposal that they consider unjustified. Such a refusal shall be substantiated in writing.

Article 40b[2]

(1)[3] Refunds shall be treated as reduction of income. The authorising officer shall ensure that refunds owed by the Organisation are made in compliance with the rules laid down in the European Patent Convention and the financial provisions of the Organisation. The refund decision shall state in particular:

1 Amended by decision of the Admnistrative Council CA/D 11/24..
2 Inserted by decision of the Administrative Council CA/D 7/20.
3 Amended by decision of the Admnistrative Council CA/D 11/24.

(a) the date of issue of the refund;
(b) the accounting date on which the refund is to be charged;
(c) the exact budget heading;
(d) the amount to be refunded;
(e) the name and the address of the recipient as well as the details required for the applicable payment method;
(f) the purpose of the refund.

(2) For the purpose of validating the refund, documentation must be made available to the accounting officer showing the recipient's rights to the refund.

(3)[1] The accounting officer may cancel a duly established refund, where the right to the refund has been extinguished pursuant to the rules adopted in accordance with the European Patent Convention.

Article 40c[2]

Incoming payments of undue amounts are treated as liabilities. Since they are not related to a debt, no receipt order will be issued. The accounting officer shall ensure that the repayment decision in respect of such amounts shall state in particular:

(a) the date of issue of the repayment;
(b) the accounting date of the repayment;
(c) the exact financial account;
(d) the amount to be repaid;
(e) the name and the address of the recipient as well as the details required for the applicable payment method;
(f) the purpose of the repayment.

Article 41[3]

Chapter IV
Management of appropriations

1. Commitment of expenditure

Article 42[4]

Before any measures are taken which involve expenditure chargeable to the Organisation the necessary funds must first be committed by the authorising officer, except for appropriations listed under Article 35, paragraph 1.

1 Inserted by decision of the Admnistrative Council CA/D 11/24.
2 Inserted by decision of the Admnistrative Council CA/D 11/24.
3 Article 41 deleted by decision of the Administrative Council CA/D 11/24.
4 Amended by decision of the Administrative Council CA/D 11/23.

Article 43[1]

Commitments shall state inter alia the purpose and amount of the expenditure involved, the budget and financial account to which they are charged and, for all amounts exceeding a threshold to be set by the President, the names of the creditors. Commitments exceeding the above threshold shall be forwarded to the finance department. Without prejudice to the responsibilities according to these Financial Regulations of authorising officers, budget holders and procurement officers and without prejudice to the specific provisions on the award of contracts, the finance department is responsible for the controlling of and advice on measures with financial implications exceeding the threshold referred to above.

Article 44

(1) Commitments shall be registered subject to the following requirements:

(a) that the expenditure is charged to the correct budget heading;
(b) that funds are available;
(c) that the expenditure envisaged is in order and that it complies with the relevant provisions, and in particular with these Regulations and the budget.

(2) The authorising officer shall be responsible for registration.

(3) Commitments shall take effect as soon as they are registered.

2. Validation of expenditure

Article 45[2]

(1) The authorising officer shall validate the delivered goods, services or work by:

(a) certifying that the goods have been delivered, the services rendered or the work done in accordance with the terms of the contract;
(b) checking the price and quantity on the invoice and any other document giving rise to a charge in the budget.

(2) The authorising officer shall validate the expenditure by:

(a) verifying the formal compliance of the invoice with the applicable accounting requirements;
(b) establishing or verifying the amount of the debt;
(c) verifying the conditions under which payment is due.

1 Amended by decision of the Administrative Council CA/D 11/23.
2 Amended by decision of the Administrative Council CA/D 5/10.

Article 46

(1)[1] For the purposes of validating the goods delivered, services rendered or the work done and the expenditure, vouchers must be presented showing the creditor's rights or confirming the existence of a document justifying payment. The vouchers shall be in compliance with the fiscal regulations.

(2) The competent authorising officer shall personally check the vouchers or, on his own responsibility, satisfy himself that this has been done.

(3)[2] In the case of duty travel expenditure and expenditure for catering for internal meetings not exceeding the amount specified in Annex I, the competent authorising officer may, on his own responsibility, conduct specific control procedures e.g. random checks, for the purpose of validating the relevant expenses.

Article 47

Remuneration and allowances shall be validated on the basis of the collective statement drawn up by the department responsible for personnel matters, except where they need to be validated individually.

3. Authorisation of expenditure

Article 48

By issuing a payment order to the accounting officer, the authorising officer authorises the accounting officer to pay the expenditure validated.

Article 49

(1)[3] The payment order shall confirm that the goods have been received, the services have been performed or the work has been done and, where applicable, that the relevant items have been entered in the Asset Register referred to in Article 61.

2)[4] It shall also state:

(a) the date of issue of the payment order;
(b) the accounting date which is the date on which the services or goods were provided;
(c) the exact financial account to which it is to be charged;
(d) the amount to be paid, specifying the currency;
(e) the name and address of the payee;
(f) the purpose of the expenditure;
(g) wherever possible, the mode of payment;

1 Amended by decision of the Administrative Council CA/D 5/10.
2 Amended by decision of the Administrative Council CA/D 11/16.
3 Amended by decision of the Administrative Council CA/D 7/14.
4 Amended by decision of the Admnistrative Council CA/D 11/24.

(h) the numbers and dates of the corresponding registrations of commitment, and
(i) the cost centre to which the expenditure is to be charged.

(3) The payment order shall be dated and signed by the authorising officer.

(4)[1] Exceptionally, advance payment may be made, or direct debiting authorised, if circumstances require it. The President may lay down rules which specify the preconditions for advance payments and direct debiting and the procedure to be followed. Such procedure shall ensure clear accountability and transparency.

Article 50

(1) The payment order shall be accompanied by the original vouchers.

(2) Exceptionally, copies of vouchers authenticated by the authorising officer may be accepted in place of originals which were already produced in support of an earlier payment or which cannot be surrendered.

(3) Where payment is to be made in instalments, the first payment order shall be accompanied by vouchers establishing that the creditor is entitled to payment of that instalment. Subsequent payment orders shall refer to the vouchers already furnished and quote the reference number of the first payment order.

(4)[2] In the case of the reimbursement of duty travel expenses,

(a) copies of vouchers authenticated by the authorising officer may be accepted in place of originals
(b) for expenses up to the amount specified in Annex I which are not covered by a lump-sum amount, a personal declaration by the duty traveller may be accepted without production of the relevant vouchers
(c) for the purpose of validating the expenses, original vouchers must be kept by the duty traveller until the reimbursement is made

(5)[3] The President shall specify further for which other payments under the Service Regulations for permanent and other employees of the Office copies of certificates and vouchers may be accepted in place of originals. For the purpose of validating the payments, the original documents must be kept by the requester.

Article 51[4]

The authorising officer may grant advances to employees:

(1) in cases expressly provided for in the Service Regulations for permanent and other employees of the Office;

1 Amended by decision of the Administrative Council CA/D 7/14.
2 Amended by decision of the Administrative Council CA/D 2/11.
3 Amended by decision of the Admnistrative Council CA/D 11/24.
4 Amended by decision of the Admnistrative Council CA/D 11/24.

(2) where an employee is called upon to make an advance payment recognised as being chargeable to the Organisation.

Chapter V
Payment of expenditure

Article 52

(1) The purpose of payment is to discharge the Organisation partially or completely of its obligations towards its creditors.

(2) Payment shall be made by the accounting officer within the limits of the funds available.

Article 53

(1)[1] In the event of receiving an erroneous payment order the accounting officer shall suspend the payment. A payment order shall be considered to be erroneous inter alia in the following cases:

(a) lack of funds;
(b) if it does not validly discharge the Organisation from its obligations;
(c) if it does not observe the formalities prescribed by these Regulations.

The accounting officer shall exercise his payment control function having due account to his responsibilities under Articles 66, paragraph 1, and 69, paragraph 1.

(2) The accounting officer shall immediately notify the authorising officer in writing of his reasons for suspending payment.

(3) Except in cases where payment is suspended owing to lack of funds or because the validity of the discharge is contested, the authorising officer may, on his own responsibility and in writing, countermand the suspension.

(4) Upon receipt of the countermanding order, the accounting officer shall effect payment and attach the countermanding order to the payment order.

Article 54

(1)[2] Payment shall normally be made through a bank account.

(2)[3] Bank transfers and other payments may be effected only with the approval of the accounting officer or the assistant accounting officer and the prior approval of one other duly authorised person.

(3)[4] The accounting officer may make individual payments not exceeding the amount specified in Annex I and debit them to a suspense account without the authorising

1 Amended by decision of the Administrative Council CA/D 11/16.
2 Amended by decision of the Administrative Council CA/D 11/16.
3 Amended by decision of the Administrative Council CA/D 4/22.
4 Amended by decision of the Administrative Council CA/D 2/11.

officer having issued a payment order, provided the amount in question has been committed.

At the end of each calendar month and whenever the total amount of such payments reaches the amount specified in Annex I, the accounting officer must produce the relevant vouchers, in the light of which the authorising officer shall issue the corresponding payment order to the accounting officer.

(4)[1] The accounting officer shall draw up yearly and submit to the Committee for opinion, and the Administrative Council for approval, a list of payments effected by the accounting officer under orders issued by the authorising officer in accordance with Article 53, paragraphs 3 and 4, and a list of receipt orders cancelled in accordance with Article 40a.

1 Amended by decision of the Administrative Council CA/D 16/12.

TITLE V
PLACING OF CONTRACTS, ACQUISITION OF IMMOVABLE PROPERTY, INVENTORY, ADMINISTRATION OF FUNDS, ACCOUNTS

Section I
Placing of contracts, acquisition of immovable property

Article 55[1]

(1) Contracts for the purchase or leasing of supplies, furniture and equipment, and for building works or other goods and services shall be in writing. They shall be awarded following invitations to tender. Contracts shall be awarded either on a discretionary basis taking account of a variety of factors, or on the basis of price alone, as defined in Article 56.

(2) Contracts may exceptionally be:

(a) awarded following a competitive procedure with negotiation where such procedure is justified by the nature of the goods, services or work concerned or the complexity or risks involved; or
(b) placed direct in the cases specified in Article 57.

(3) Goods may be acquired and services received against invoice in the cases specified in Article 60.

(4) Invitations to tender, be they open or restricted, shall be published in all Contracting States and, where appropriate, in non-Contracting States. However, publication of restricted invitations to tender may be dispensed with where it would harm the interests of the Organisation owing to the nature of the goods, services or work concerned.

(5) All tenders and procurement procedures shall be carried out in accordance with the principles of transparency, equal treatment, open and fair competition, proportionality and non-discrimination of bidders from different Contracting States on grounds of nationality.

Article 56[2]

(1) Where a contract is to be awarded on a discretionary basis, the competent body shall be free to choose the bid it considers best having regard to price, running costs, technical quality, delivery period or time required to carry out the work, environmental aspects, and the quality and financial guarantees offered by each bidder.

1 Amended by decision of the Administrative Council CA/D 10/17.
2 Amended by decision of the Administrative Council CA/D 10/17.

(2) Where a contract is to be awarded on the basis of price alone, the competent body shall award the contract to the lowest bidder amongst those tendering comparable bids in due form and in accordance with the rules and conditions applicable.

(3) The invitation to tender is termed "open" if any person is entitled to bid; it is termed "restricted" if confined to competing bidders selected as being particularly qualified for the purpose.

(4) Where a contract is to be awarded in a competitive procedure with negotiation, any person may submit a request to participate in response to a call for competition. Such call for competition shall lay down the scope of negotiation. Only bidders selected as qualified to perform the contract are invited to participate in the competitive procedure with negotiation.

Article 57[1]

Contracts may be placed direct where:

(a) the contract sum or annual rental for a single indivisible unit does not exceed the amount specified in Annex I; the President must nevertheless, as far as possible and by all appropriate means, ensure that contractors or suppliers able to supply the goods or perform the service or work in question compete for the contract;

(b)[2] the goods, services or work are so urgently required that it is not possible to await the outcome of either of the forms of invitation to tender provided for in Article 56, in which case, if the award decision involves an amount exceeding the amount specified in Annex I, it shall be reported in comprehensive form to the Committee as soon as possible;

(c) there has been no response to an invitation to tender or the prices quoted are not acceptable and re-issuing the invitation is not expected to produce a better result;

(d) for technical, practical or legal reasons the goods, services or work can only be provided by a specific contractor or supplier.

Article 58[3]

(1) Except for contracts and leases against budgetary provisions in Chapters 32 and 42 and Article 3103 of the budget and contracts for the acquisition, exchange or long-term lease of immovable property, contracts and leases involving an amount or annual rent exceeding, for a single indivisible unit, the amount specified in Annex I shall be referred for approval, before the authorising officer approves the award of contract, to the Committee.

1 Amended by decision of the Administrative Council CA/D 5/10.
2 Amended by decision of the Administrative Council CA/D 2/11.
3 Amended by decision of the Administrative Council CA/D 2/11.

(2) Contracts for the acquisition, exchange or long-term lease of immovable property involving an amount or annual rent exceeding, for a single indivisible unit, the amount specified in Annex I shall be referred for approval, before the authorising officer approves the award of contract, to the Administrative Council, which shall take its decision after the Committee has been given an opportunity to comment.

(3) All award decisions against budgetary provisions in Chapters 32 and 42 and Article 3103 of the budget involving an amount or annual rent exceeding, for a single indivisible unit, the threshold referred to in paragraph 1 shall be reported in comprehensive form to the Committee at the next possible Committee meeting.

(4)[1] The Committee shall be informed by 30 June at the latest each year of all award decisions for the preceding year not already referred or reported to the Committee where the contracts and leases involve an amount or annual rent for a single indivisible unit exceeding the amount specified in Annex I.

(5)[2] With regard to the contracts, leases and award decisions referred to the Administrative Council or the Committee for approval or reported to the Committee under the present article, at least the following information shall be supplied:

(a) for each award decision under paragraphs 1, 2 and 3: the type of award procedure, the title and main features of the contract, the number of bidders, the number of admissible bids, the name of the successful bidder, the main reasons for the award decision including a summary of the technical and financial evaluation of the bids that lead to the decision, the budget article affected and the amount or annual rent involved. The information shall be sufficiently detailed to allow the Administrative Council and the Committee to take an informed decision on the approval of each award decision under paragraphs 1 and 2, or to assess the award decisions reported on under paragraph 3;

(b) for each award decision under paragraph 4: in tabular form the type of award procedure, the title of the contract, the budget article affected, the number of bidders, the number of admissible bids, the name of the successful bidder and the amount or annual rent.

Article 59

As a guarantee of performance of contract, contractors or suppliers may be required to provide security in advance.

Part of the amount payable by the Organisation may be withheld pending final acceptance.

1 Amended by decision of the Administrative Council CA/D 8/19.
2 Inserted by decision of the Administrative Council CA/D 8/19.

Article 60

Goods may be acquired and services received against invoice if the expected cost for a single indivisible unit does not exceed the amount specified in Annex I.

Section II
Asset Register and Inventories[1]

Article 61[2]

(1) An Asset Register shall be kept, listing all movable and immovable property belonging to or controlled by the Organisation, as per the instructions for entries in the accounts referred to in Article 67, paragraph 3, and to be capitalised if their value is equal to or greater than the amount specified in Annex I, if they are to be used for more than one year and are not classified as non-durable consumer goods. Selected items of movable property may be capitalised by the Office regardless of their value.

(2) Items of movable and immovable property shall, upon acquisition, be entered in the Asset Register as defined above, when payment is ordered. Said entry shall be noted on the payment order.

(3) The competent authorising officer is responsible for proper control of immovable and movable property belonging to the Organisation, and may list in an inventory items of property, regardless of their value, where sound financial management so requires.

Article 62

(1) Sales of movable or immovable property shall be so advertised as to ensure that the most advantageous terms are obtained.

(2) Permanent and other employees of the Office may not acquire movable or immovable property sold by the Organisation, except by bidding at public auction.

3)[3] Donations in kind by the Organisation may not be made to Office employees and are permitted only if:

(a) the items to be donated are no longer used by the Office;
(b) the cost of selling the items is estimated to exceed the potential proceeds from a sale;
(c) the procedure is documented and accessible to the auditors to ensure transparency;
(d) they are aligned with the Organisation's goal of sustainability by reducing waste and ensuring that the items are reused or recycled.

1 Amended by decision of the Administrative Council CA/D 7/14.
2 Amended by decision of the Administrative Council CA/D 7/14.
3 Inserted by decision of the Administrative Council CA/D 11/24.

The authorising officer shall provide the accounting officer with the supporting documents.

Article 63

(1)[1] A written statement shall be drawn up by the competent authorising officer whenever any property referred to in Article 61 is sold, scrapped or otherwise disposed of, or reported missing owing to loss or theft, or for any other reason.

(2) The statement shall mention whether an employee of the Office or any other person may be required to make restitution.

Section III
Administration of funds[2]

Article 64

In accordance with the guidelines drawn up by the Committee, the President shall be empowered to:

(a) invest such funds as are not needed for the immediate requirements of the Organisation;

(b) open and operate bank accounts, including foreign currency accounts, as necessary for the performance of the official activities of the Organisation;

(c) borrow such funds as may be necessary for the performance of the official activities of the Organisation subject to such conditions and within such limits as may be prescribed within the framework of the budget.

Section IV
Accounts

Chapter I
General points

Article 65[3]

The accounts of the Organisation shall be kept in euro.

1 Amended by decision of the Administrative Council CA/D 7/14.
2 Article 64a deleted by decision of the Administrative Council CA/D 10/91.
3 Amended by decision of the Administrative Council CA/D 3/01.

Article 66

(1) An accounting officer shall be responsible for the keeping of accounts.

(2) He shall be appointed by the President who may also appoint assistant accounting officers as necessary.

Article 67[1]

(1) The accounts shall be recorded by calendar year applying the accounting principles referred to in Article 1, paragraph 3, and in such a way as to allow for the presentation of the financial statements as defined in Article 69.

2)[2] Entries in the accounts shall be made in accordance with the Organisation's chart of accounts and the implementing rules and directives.

(3)[3] The structure of the accounts shall be published by the Office in a centrally accessible location.

(4) Data entries shall be supported by vouchers or other relevant documents.

(5)[4] In order to perform checks in accordance with Article 53, paragraph 1, or to draw up financial statements compliant with the accounting principles defined in Article 1, the accounting officer may instruct the authorising officers to provide information, vouchers and other relevant documents and to perform entries in the accounts or in asset and material registers.

Article 68[5]

Accounts shall be closed at the end of the accounting period as defined in Article 45 of the Convention. The accounting officer shall draw up the financial statements and notes stipulated in Article 69, together with any relevant observations, in good time for submission to the auditors in accordance with Article 70.

Chapter II
Structure of the annual accounts

Article 69[6]

(1) The financial statements relating to the annual accounts to be drawn up by the accounting officer, and to be submitted to the Committee for an opinion and to the Administrative Council for approval, shall comprise:

1 Amended by decision of the Administrative Council CA/D 16/04.
2 Amended by decision of the Administrative Council CA/D 11/24..
3 Amended by decision of the Administrative Council CA/D 11/24.
4 Amended by decision of the Administrative Council CA/D 11/15.
5 Amended by decision of the Administrative Council CA/D 10/17.
6 Amended by decision of the Administrative Council CA/D 16/04.

(a) the complete set of financial statements for the Organisation in accordance with the accounting principles referred to in Article 1, paragraph 3;
(b) the budget implementation statement as defined in Article 35, paragraph 3;

(2) The financial statements shall be supported by notes which shall include:

(a) a statement of the accounting policies adopted by the Organisation including departures from IFRS requirements, if any, in accordance with IAS 1;
(b) such further explanations as may be necessary for a proper understanding of the annual accounts.

TITLE VI
PRESENTATION, AUDITING AND APPROVAL OF ACCOUNTS[1]

Article 70[2]

(1) The financial statements relating to the annual accounts shall be submitted by the President to the auditors no later than 15 March following the close of the accounting period.

(2) The President shall issue the financial statements relating to the annual accounts no later than 15 April, provided that the report of the auditors as described in Article 79 in respect of the preceding period has been received by that date.

(3) The President shall submit the audited financial statements relating to the annual accounts to the Administrative Council in due time for its June meeting.

Article 71

(1) The number of auditors to be appointed pursuant to Article 49 of the Convention shall be three. Together they shall comprise the Board of Auditors (hereinafter referred to as "the Board"). Board members shall be appointed by the Administrative Council, after the Committee has been given an opportunity to comment, from a list of candidates nominated by the Contracting States.

(2) Board members must not have been employed by the Organisation during the three years preceding the date of their appointment.

(3) Board members shall have proven audit experience and shall preferably be selected from among the officials of national audit bodies of the Contracting States. They shall have a good command of one of the three official languages of the Organisation and be able to work in a second. All three official languages shall be represented on the Board.

(4) Board members shall be appointed on a rota basis in accordance with Article 49, paragraph 1, of the Convention.

(5)[3] Nine months before the expiry of the term of office of a Board member, they shall inform the Administrative Council whether they are willing to continue their tasks. At its following meeting, the Administrative Council shall decide to renew or extend the term of office of that Board member, or to open a procedure for appointment with a call for candidates. In the latter event, the Board member concerned can stand as a candidate in the selection procedure.

1 Revised by decision of the Administrative Council, see CA/64/94 and CA/PV55.
2 Amended by decision of the Administrative Council CA/D 11/24.
3 Inserted by decision of the Administrative Council CA/D 8/19.

(6)[1] Board members who resign or whose term of office has expired shall remain in office until they are replaced. They may not be employed by the Organisation during the three years following the end of their term of office.

Article 72[2]

The Board shall draw up its own rules of procedure governing:

- the distribution of tasks among Board members
- the process by which the Board shall reach its decisions
- the drafting of the annual audit programme
- the commissioning of audit firms or other external experts
- fundamental auditing standards and methods.

Article 73

(1) Board members shall have the status of experts of the Organisation within the meaning of Article 15 of the Protocol on Privileges and Immunities of the Organisation.

(2)[3] The Administrative Council shall determine the duty allowance to be paid to Board members. Mission expenses incurred in the performance of their duties shall be reimbursed in accordance with the rules applicable to experts travelling on Organisation business.

Article 74

The President shall set aside each year in the main budget of the Organisation an amount equivalent to one thousandth of the total budget to cover all audit expenses.

Article 75

(1) Within the limits set by the budget for audit:

(a)[4] the Board may call upon assistants of its choice whose names shall be communicated to the President. They may be remunerated by decision of the Administrative Council and shall be entitled to reimbursement of mission expenses in accordance with the rules applicable to Board members;

(b) the Board shall each year determine which auditing activities are to be executed by audit firms or other external experts. It shall select the audit firms or experts in accordance with the provisions of Title V,

1 Amended by decision of the Administrative Council CA/D 8/19.
2 See "Rules of procedure of the Board of Auditors of the EPO" Part III 1d.
3 The Budget and Finance Committee has been authorised to decide on behalf of the Administrative Council (CA/D 23/01).
4 The Budget and Finance Committee has been authorised to decide on behalf of the Administrative Council (CA/D 23/01).

Section I, of these Regulations and shall decide each year whether existing contracts are to be renewed.

(2) The President shall afford technical assistance in the selection of the audit firms or experts and shall commission those selected by the Board. The contractual relationship shall be between the Organisation, represented by the President, and the audit firms or experts. The contracts, which must be drafted in agreement with the Board, shall stipulate that the audit firms or experts report only to the Board, and that only the Board is competent to give them instructions. The President shall terminate the contracts on the Board's initiative.

(3)[1] Audit firms or experts who work or have worked on behalf of the Board shall not be employed by the Office during their period of engagement or for two years thereafter. Audit firms or experts who work or have worked for the Office shall not work for the Board in the same or related areas during their period of engagement by the Office or for two years thereafter.

(4) The Board shall be responsible for the supervision, evaluation and approval of work performed and services provided by audit firms or experts.

Article 76[2]

(1) The Board shall carry out its activities in accordance with Article 49 of the Convention, the Financial Regulations and professional auditing standards.

(2) The audit, which shall be carried out on the basis of whatever documents or other records the auditors may consider necessary and, if need be, in situ, shall establish in particular whether:

(a) the terms of the budget and other budgetary provisions have been adhered to;
(b) the annual accounts as defined in Article 69 have been properly substantiated and all transactions properly recorded;
(c) securities and cash on deposit accord with the amounts in the cash accounts;
(d) procedures are efficient and economical and whether work could be performed more efficiently with fewer staff or other resources, or in other ways.

(3) The Administrative Council may, on a limited scale, ask the Board to carry out specific investigations or reviews."

Article 77

(1) The President shall afford the Board whatever facilities it considers necessary for the performance of its duties. The accounting officer shall, in particular, place at its disposal whatever accounts relating to cash, securities

1 Amended by decision of the Administrative Council CA/D 21/13.
2 Amended by decision of the Administrative Council CA/D 10/17.

and physical assets, entry records, vouchers and inventories it considers necessary.

(2) Board members and their assistants shall have access to all the premises of the Organisation and shall be empowered to interview the President or any employee of the Office. The same shall apply to the audit firms and external experts in so far as this is necessary for them to carry out their assignment.

(3) The Board shall receive the annual internal audit programme and all reports of the internal audit department of the Office.

(4) Board members are entitled to attend the meetings of the Administrative Council and its committees.

Article 78

The Board shall communicate objections regarding the accuracy or completeness of the financial statements arising during the audit to the accounting officer who

may amend the accounts accordingly until such time as the auditors' report has been completed.

Article 79

After the close of each accounting period and following its audit the Board shall present a report containing the following elements:

- an audit opinion signed by the Board on whether, subject to such reservations as it may wish to make, the annual accounts submitted to it in accordance with Article 69 give a true and fair view of the financial position of the Organisation and of the results of its operations for the period then ended, in conformity with the Convention, these Regulations and professional accounting principles;
- the results of the audit carried out to ascertain whether the financial management of the Office is sound;
- whatever observations the Board considers necessary as to the appropriateness of the existing budgetary and financial arrangements and on any changes proposed by the Office, together with such changes as the Board may itself wish to suggest; and
- the Board's report on its audit activities in respect of the accounting period then ended and the services provided by audit firms or external experts, together with a summary of the expenditure incurred in respect of the various auditing activities.

Article 80[1]

(1) The Board shall forward to the President not later than 15 April of each accounting period the report described in Article 79 in respect of the preceding period.

The President shall forward the section of the report concerning the Reserve Funds for Pensions and Social Security to the Fund Administrator without delay.

(2) The Fund Administrator shall forward the section of the report concerning the Reserve Funds for Pensions and Social Security to the Supervisory Board not later than the following 30 April together with his explanations and reasons.

(3) The report, together with such explanations and reasons as the President and the Fund Administrator may consider appropriate, shall be communicated to the Committee in good time for the June meeting of the Administrative Council.

(4) The Supervisory Board shall communicate to the Committee its comments, if any, on the section of the report concerning the Reserve Funds for Pensions

1 Amended by decision of the Administrative Council CA/D 10/17.

and Social Security and a proposal regarding the discharge of the Fund Administrator in good time for the June meeting of the Administrative Council.

(5) The President shall submit the report, together with the explanations and the other documents specified in Article 49, paragraph 3, of the Convention, to the Administrative Council in good time for its June meeting. The Committee and the Supervisory Board shall communicate their comments, if any, on the report and a proposal regarding the discharge of the President and the Fund Administrator to the Administrative Council at its June meeting.

(6) The Committee and the Administrative Council shall discuss the documents referred to in this Article in the presence of the Board.

TITLE VII
INTERNAL AUDIT AND OVERSIGHT[1]

Article 81[2]

(1) The President shall be assisted in the performance of his functions by Internal Audit and Oversight (IAO), a unit independent of the operational activities of the Organisation, which shall carry out assessments and report directly to him, having due regard to the prerogatives of the Board of Auditors. The reporting line for IAO when dealing with matters concerning the Reserve Funds for Pensions and Social Security shall be in accordance with the relevant provisions in the Regulations for the Funds.

(2) IAO shall provide independent, objective assurance services designed to add value to and improve the regulatory compliance, performance and quality of the Office's operations. It shall help the Organisation to accomplish its objectives by taking a systematic approach to appraising and improving the effectiveness of risk management, control and governance processes.

(3) IAO shall operate in accordance with generally recognised professional standards and the Charter for Internal Audit and Oversight issued by the President.

1 Amended by decision of the Administrative Council CA/D 7/14.
2 Amended by decision of the Administrative Council CA/D 7/14.

TITLE VIII
MISCELLANEOUS PROVISIONS[1]

Article 82[2]

Annexes I and II shall form an integral part of these Regulations.

Article 83[3]

The President shall be responsible for the implementation of these Regulations; he shall lay down the rules for their implementation after consulting the Committee.

TITLE IX
FINAL PROVISION

Article 84

These Regulations shall enter into force on 20 October 1977.[4]

1 Amended by decision of the Administrative Council CA/D 2/11.
2 Amended by decision of the Administrative Council CA/D 2/11.
3 Amended by decision of the Administrative Council CA/D 2/11.
4 Revised by decision of the Administrative Council CA/D 7/91.

ANNEX I

Reference amounts in the Financial Regulations[1/2]

Article 25(2)(a)	50
Article 46(3)	euro 150 (net of VAT)
Article 50(4)(b) and Article 54(3), first sub-paragraph	euro 50
Article 54(3), second sub-paragraph	euro 750
Article 57	
sub-paragraph (a)	euro 200 000
sub-paragraph (b)	euro 250 000
Article 58	
paragraphs 1 and 2	euro 3 000 000
paragraph 4	euro 250 000
Article 60	euro 15 000[3]
Article 61(1)	euro 5 000

1 Net of VAT or similiar taxes.
2 Amended by decision of the Administrative Council CA/D 10/17.
3 Amended by decision of the Administrative Council CA/D 8/19.

ANNEX II

Structure of products and services[1]

1 Filing

2 Search

3 Examination as to patentability

4 Examination of oppositions

5 Examination of appeals

6 Publication, patent information

7 Technical co-operation, third-party funding

8 European Patent Academy

9 Income not attributable to a product

1 Amended by decision of the Administrative Council CA/D 2/11.

Financial Regulations and Implementing rules

Implementing rules and directives

European Patent Office
The President

Munich, 1 January 2024

INSTRUCTIONS FOR THE IMPLEMENTATION OF CERTAIN PROVISIONS OF THE FINANCIAL REGULATIONS

The following provisions are to be implemented with effect from the beginning of the 2024 accounting period.

1. General

The authorising officer (the budget holder where the duties of authoring officer are divided between the budget holder and the procurement officer as per Article 22a FinRegs) has sole responsibility for drawing up commitments correctly and on time and for clearing and authorising expenditure (see Article 38 FinRegs in particular).

Without prejudice to the responsibilities of authorising officers, budget holders and procurement officers and without prejudice to the specific provisions on the award of contracts, Office-wide control of and advice on operations with financial implications is exercised by PD Finance, which also determines the type and extent of that control (ref. Article 43 FinRegs). To allow this, PD Finance must be informed by authorising officers of any commitments involving a financial amount exceeding EUR 15 000.

Any documents intended for the President, for the EPO's governing bodies or for management bodies such as the MAC containing proposals with material financial consequences should first be submitted to PD Finance in due time for counter-signature and, where appropriate, for opinion.

1.1 Responsibilities of principal authorising officers (budget holders)

According to Article 22a(2) FinRegs, budget holders are responsible for the management of budget appropriations, including the allocation of funds to activities, commitment and transfer of funds, the approval of the award of contracts and the validation of delivered goods, services and work.

The principal authorising officers are requested to comply with the stipulations of Article 38 FinRegs by ensuring that the processes and controls required for them to properly supervise the exercise of the powers sub-delegated by them to authorising officers (known as "authorising officers by sub-delegation") and to travel budget holders have been put in place and are operating effectively.

Principal authorising officers may be requested by either PD Finance, PD Procurement and Vendor Management ("Procurement") or Legal Affairs to formally validate any action with financial impact taken by an authorising officer/budget holder by sub-delegation they have appointed. Requests for formal validation may be issued in cases, for example, where the choice of award procedure/supplier and/or the financial contractual terms deviate

substantially from usual practice.

In addition, upon request from PD Finance, Procurement or Legal Affairs, the principal authorising officer will review cases where the facts gathered during the exercise of financial and compliance control might indicate a possible breach of EPO provisions that may have caused in the past or may cause in the future financial damage to the Office.

The principal authorising officers will ensure that PD Finance is kept informed of all valid sub-delegations and deputations granted to authorising officers, delegated acceptance officers and travel budget holders, as well as of the withdrawal of these designations. PD Finance may request that principal authorising officers periodically review the list of sub-delegations and deputations.

As a matter of principle, no action that may give rise to a spending commitment by the Organisation may be taken until the necessary purchase requisitions have been scrutinised and approved by all relevant EPO departments. Binding legal obligations extending into future years beyond the current accounting period require commitments in each of these years. In the event of failure to comply with the Financial Regulations and their implementing rules, such as in the extreme cases singled out for criticism by the auditors where commitments had not been posted until after financial obligations had been entered into, purchase orders sent out or – worse still – invoices received, the authorising officer/budget holder responsible may face investigation for possible misconduct ("Implementing rules for Articles 21, 21a and 93, paragraph 2, of the Service Regulations for permanent and other employees of the European Patent Office") and subsequent disciplinary action as well as the possibility of having to pay compensation.

Under Article 22 ServRegs, all employees may be liable to make financial reparation, for example if they exceed their remit and place procurement orders without their authorising officer's/budget holder's knowledge.

Authorising officers/budget holders must also make use of any contractually agreed early-payment, bulk or other discounts. Here again, a liability to make financial reparation may arise in cases of severe negligence.

1.2 Segregation of functions: budget holder vs. procurement officer (Article 22a FinRegs)

For procurement activities, the duties of the authorising officer are divided between the budget holder (decentralised) and the procurement officer (centralised) for the large majority of line items in the budget. The distinct responsibilities of these two roles are reflected in the Financial Regulations and relevant implementing texts, in particular the Tender Guidelines. Authorising officers who administer budgetary items for which the duties are not yet divided in this way may nevertheless make use of the facilities of Procurement as regards the sourcing for competitive award procedures and may request assistance in performing tasks that would normally be performed by a procurement officer within Procurement.

In line with best practice standards of internal control, the auditors place great emphasis on segregating the functions of awarding contracts and of confirming the proper receipt of goods and services. While this is by definition achieved for procurements for which the duties of authorising officer are divided, those departments exempted from this division have to set up internal instructions to guarantee this segregation. Such instructions should be made accessible to the auditors upon request.

1.3 IFRS compliance

Under Article 1(3) FinRegs, the Organisation has to comply with International Financial Reporting Standards (IFRS). PD Finance's instructions on this topic are available on the accounting system's intranet portal ("FIPS portal") and must be followed. In particular, authorising officers/budget holders and procurement officers must comply with the rules governing the accounts to which expenditure or income is charged and PD Finance's respective information requirements. Authorising officers/budget holders and procurement officers are also reminded that the debts and receivables they establish as payment and receipt orders (Article 22(2) FinRegs) must be allocated to the right accounting period. Reference is made to Article 67(5) FinRegs as regards the obligation of authorising officers/budget holders and procurement officers to follow instructions from the accounting officer.

2. Receipts and refunds (Articles 40-41 FinRegs)

Articles 40, 40a, 40b and 41 on receipts and refunds are to be applied as follows:

2.1 Non-enforceable EPC and PCT procedural fees, renewal fees under Article 86 EPC and non-enforceable administrative fees

Non-payment of EPC or PCT fees has various legal consequences, but since the EPO has no enforceable claim to these fees they cannot be established as debts beforehand. Instead, formalities officers check from the dossier, EPC, PCT (plus their implementing provisions) and the RFees application that a fee payment has been made in full and in due time. Nor therefore is any receipt order issued subsequently.

2.2. Renewal fees under Article 39 EPC (EPO share)

Under present rules (Article 9 FinRegs), no due date for the debt can be established. Instead, on receipt of the payments and the related supporting documents the authorising officer must check that full and proper payment has been made, and confirm this to the accounting officer. Additional claims against individual contracting states must be sent to the accounting officer as receipt orders for recovery. In cases of overpayment or payments which should not have been made at all, the authorising officer must issue a payment order establishing that a refund is due and the amount of that refund.

To claim interest for late payment of renewal fees (Article 39(4) EPC, Article 17(1) FinRegs), the accounting officer must issue an invoice to the

concerned member state

2.3 Receipts from sales and other services (searches on behalf of states, sale of patent information, other publications and photocopies, enforceable administrative fees, other services and debts)

For such items, the authorising officer must issue an invoice. This is to be regarded as a receipt order under the FinRegs, so no additional formal order needs be issued. Invoices must be issued in due time and the original sent to the debtor for payment with a copy going to the accounting officer for recovery. If an authorising officer forgoes or cancels recovery, they issue a credit note for the debtor. A credit note must contain the same information as the invoice, give the reason for issue and indicate the invoice to which it relates. It must be sent to the accounting officer for action. Credit notes not issued under general EPO provisions or because the debt has been wrongly calculated, the order cancelled before delivery or the wrong goods delivered must be submitted with reasons for the accounting officer's approval before they can be sent to the beneficiary (Article 40a FinRegs).

The accounting officer regularly informs authorising officers of the names of defaulting clients. Authorising officers may then supply such clients only against advance payment and after payment of all outstanding debts. The accounting officer decides when advance payment can be dispensed with. Debts the accounting officer is unable to recover even after written reminders (and legal action, where appropriate), must be written off and a payment order issued against the current accounting period.

For deliveries to high-risk regions, payment procedures should be agreed beforehand with the accounting officer.

The invoice accounting system (accounts receivable) must be so structured that it is possible at all times to check that debts are correctly entered and to ascertain which have been settled and which are still outstanding (with their due dates).

2.4 Financial income

For capital and interest repayments made by EPO staff on their home loans, the authorising officer supplies the accounting officer with a receipt order.

Income from EPO operating capital investments must be certified as at the due date by the accounting officer to confirm that it has been calculated correctly. No formal receipt order is required. The same applies for capital sums redeemed.

Differences on exchange rates are booked as a positive or negative balance in the operating result for the accounting period.

2.5 Other income

For all other income (e.g. from sale of capital assets or other items, pension rights assigned by ex-IIB staff, etc.), authorising officers must wherever possible issue a formal receipt order beforehand and send it to the accounting

officer for recovery.

If such income arises without a receipt order issued under Article 40 FinRegs, the amount in question must be credited as soon as possible to a general ledger suspense account. The authorising officer responsible must be requested to initiate the debt-establishment procedure and to issue the missing receipt order so that the item can be booked to a budget account. If an amount which should not have been recovered has been booked to a suspense account, it must be refunded straight away.

2.6 Refunds

Refund proposals must be supported by all appropriate information required for authorising and executing the refunds and for the subsequent auditing thereof.

This includes:

- Refund proposal issued by the formalities officer within the refund accountancy system, indicating the refund reason and applicable refund regulation;
- Evidence for double or overpayments of invoices or European qualifying examination fees in the Office's financial system;
- Communications sent to the candidate by the European qualifying examination administration or by the candidate as evidence for the entitlement of the refund (e.g. rejection, withdrawal, settlement of complaints);
- Decisions of the Disciplinary Board of Appeal sent to the appellant leading to a refund of appeal fees.

3. Commitment of expenditure (Articles 42-44 FinRegs)

Commitments of expenditure as referred to in Article 42 FinRegs take the form of purchase orders for procurement-related expenditure, and of funds reservations for reimbursements and activities still exempted from the division of duties under Article 22a(1) FinRegs.

In addition to the information listed in Article 43 FinRegs, purchase orders and funds reservations must be supported by all other appropriate information required for authorising and implementing them and for the subsequent auditing thereof. This includes, for example, bids from potential suppliers and evaluations thereof, references to contract numbers in the relevant application, including the term of the contract, and calculations leading to the estimated amount of the funds reservation. The text field or attachments must also give details (depending on the type of funds reservation involved) of the payee, any separate internal authorisation procedure, and, where applicable, approval by the Administrative Council or its ancillary bodies.

4. Clearance and authorisation of expenditure (Articles 45-51 FinRegs)

4.1 By signing supporting documents with an electronic signature or by hand, authorising officers certify that:

- the Financial Regulations, Implementing Rules and Tender Guidelines have been complied with;
- an item has been duly received or a service duly rendered;
- if an item must be entered in the asset register or inventory, this has been done;
- all information given in the supporting document has been verified and is correct;
- the supporting document has not previously been the subject of a payment order.

4.2 For items in general, a valid supporting document is the invoice drawn up by the supplier, accompanied by one of the copies of the documents giving rise to the obligation on the part of the Organisation (e.g. purchase order, contract, etc.), if any.

In all cases, the document drawn up by the supplier must indicate:

- the nature and quantity of the items supplied or details of the services rendered, as applicable;
- the unit price and total price;
- the amount of the taxes and customs duties included in the price of the item, or any exemption from taxes.

4.3 For services, a valid supporting document is the invoice (or memorandum) drawn up by the renderer.

The document concerned must mention the nature of the service rendered, any unit price, the total price and the amount of the taxes included in the price, or any exemption from taxes.

4.4 For staff expenditure, supporting documents are:

(a) in the case of monthly salaries (including retirement pensions):

- complete lists of staff, showing all the elements of remuneration and the results of the calculations made, presented in such a way as to permit registration in the general accounts and in the accounts of costs as provided for in the accounts plan. The lists must be attached to the relevant payment order.
- a statement showing, for each payee, any change in relation to the previous month in any element of remuneration, supported – depending on the nature of the change – by copies of the decisions taken or of the documents establishing the new entitlement.
- in the case of recruitment or appointment, clearance of the first salary must be supported by a certified true copy of the recruitment or appointment decision as well as any documents used to establish the first salary, including allowances.

- in the case of establishment of retirement pensions, all documents establishing the pension rights.

(b) in the case of other remuneration (any temporary staff paid by the hour or day):

- a statement drawn up by the authorising officer indicating the days and hours worked, substantiated by any necessary supporting documents.

(c) in the case of overtime:

- a statement, signed by the authorising officer, certifying the overtime worked by each employee concerned.

(d) in the case of duty travel expenses:

- a duly completed travel order signed by the competent authority;
- a "statement of duty travel expenses" showing in particular the place of assignment, the dates and times of departure and arrival, transport expenses, subsistence expenses and other duly authorised expenses, supported by vouchers. This statement must be certified correct and signed by the duty travel section.

(e) in the case of other staff expenditure:

- supporting documents indicating the decision on which the expenditure is based and giving full details of the calculations made.

4.5 Where several payments are supported by a single document, all the payment orders must include a reference to that document.

5. Payment of expenditure (Article 53 FinRegs)

5.1 In order to detect whether an erroneous payment order has been made, the accounting officer is not required to check in substance the actual process leading up to the payment order. Unless required for their duties under Article 66 (1) FinRegs and Article 69 (1) FinRegs, the accounting officer confines themself to verifying that the payment order is assigned to a budgeted activity, that the amount entered on the payment order is identical with the total amount in the supporting document recognised as valid under the regulations in force and that the payee indicated on the payment order is indeed the creditor specified in the supporting document.

5.2 The accounting officer may, on their own responsibility and to the extent appropriate, base their verifications on the Office's internal control system and risk-oriented control techniques. For the verification of payment orders related to health care expenditure, the accounting officer may, on their own responsibility, rely on the control work performed by external experts. To avoid delays in payments, the accounting officer is authorised to perform ex-post controls if the respective payment orders concern recurring employee benefit expenses such as salaries, pensions, allowances, tax adjustments

and long-term care payments.

5.3 The delimitation of the liabilities of the authorising officer and accounting officer must be recorded by the authorising officer's electronic release of the payment order and the associated certification as set out in paragraph 4.1 of this directive. Any fault or error subsequently found in the above transactions and formalities is the sole responsibility of the authorising officer and cannot therefore involve the accounting officer's personal liability to disciplinary action or to payment of compensation.

6. Placing of contracts (Articles 55-60 FinRegs)

The provisions in Articles 55 to 60 FinRegs on the placing of contracts are further detailed in theTender Guidelines, including its annexes, and the related implementing rules and directives (Codex Part III, 1). The choice of procurement procedure is a critical and strategic decision, affecting the whole procurement process. This decision should be made and justified at the planning stage and reflected in the procurement plan. In this respect, attention is drawn to the following general principles:

- Contracts will be awarded following an invitation to tender with published notice in order to promote fair competition among market participants and thus maximising value for money.
- Where the respective conditions set out in the relevant rules are fulfilled, contracts may be placed following other procedures.
- All procurement procedures not provided for in the procurement plan will be reported to the President by Procurement.
- The "single indivisible unit" concept, which prohibits the splitting of contracts, will be observed. In cases of doubt as to the interpretation of that concept, the Budget Implementation and Compliance unit within PD Finance must be consulted before any action is taken.

The proposed accounting provisions and the resulting availability of funds have to be verified by the authorising officer before any procurement procedure is initiated. The choice of procurement procedure is then made by Procurement based on input from the budget holder, except in the few remaining cases exempted from the division of duties in Article 22a(1) FinRegs, where the decision is with the authorising officer.

According to Rule 9 of the Tender Guidelines, a report on the award procedure and all substantive decisions must be drawn up. This final report forms the basis for the budget holder's approval and subsequently can be used as an audit trail for future reviews by PD Internal Audit and Professional Standards and/or the external Board of Auditors.

In cases of serious doubt about the financial situation of a potential supplier, the authorising officer/budget holder and/or the procurement officer should − before signature of a contract − request a credit check by a credit research company via Procurement. In addition, the supplier's bank details required for the payment of their invoices must be obtained in due time before the

first purchase requests take place.

Whether, in addition to internal checks, an award of contract requires the prior approval of the Budget and Finance Committee or the Administrative Council under Article 58 FinRegs depends on the contract's value over the entire term bindingly agreed or, for open-value contracts, by its value projected with certainty over the bindingly agreed term.

At the Council's request, the external Board of Auditors will monitor EPO contract-award authorisation procedures and outcomes on a periodic basis and document any flaws or errors. Internally, I have given a similar brief to PD Internal Audit and Professional Standards.

7. Asset register and inventories of movable and immovable property (Article 61 FinRegs)

7.1 A detailed inventory showing the quantity and value of movable and immovable property must be kept by the relevant department in PD General Administration. The property must be classified by department of allocation and the inventory presented so that it is easy to check that its data tallies with that in the corresponding assets accounts kept by the accounting officer. The accounting officer must initiate a check of this kind at least once a year upon closure of the accounts for the accounting period.

7.2 The authorising officer must check on a regular basis that the data in the detailed inventory accurately reflect the facts. Verification by means of inventory count must be conducted at least:

(a) once a year for all EDP assets
(b) every three years for non-EDP assets.

The resulting report must be attached to the copy of the detailed inventory made available to the auditors by the accounting officer pursuant to Article 76 FinRegs. For immovable property the authorising officer must perform a plausibility check, however no physical inventory count is required.

António Campinos
President

European Patent Office
The President

Munich, 18 December 2024

DIRECTIVE ON IMPLEMENTATION OF THE 2025 EPO BUDGET (CA/D 1/24)

1. Introduction

The 2025 budget has been drafted according to the IFRS standardised principles introduced in 2024[1]. It is based on the following key features aimed at increasing transparency and underpinning the EPO's long-term financial sustainability:

- **Budgeting by activity**: the budget has been drafted using a bottom-up approach with funds allocated to activities. Activities represent the purpose of planned expenditures and are the main building blocks of the budget as well as the key steering dimension in the budget implementation phase.
- **Strengthened financial empowerment and accountability of budget holders**: roles and responsibilities are aimed at ensuring transparency and at providing authorising officers with a higher degree of autonomy and flexibility in the administration of funds while sharpening the financial accountability of budget holders.
- **Enhanced support for authorising officers through dedicated roles and tools**: the introduction of the planner role, the advice and services provided by finance partners and procurement partners, the deployment of the quarterly forecast process supported by state-of-the-art IT applications – three developments that support authorising officers in implementing the budget effectively in accordance with the principles of economy and sound financial management.[2]
- **Clear separation between operational and strategic expenditure**: financial provisions for strategic initiatives and operational activities have been budgeted separately and will be monitored and reported upon separately.

2. Roles and responsibilities

Following the introduction of activity-based budgeting in January 2024, the roles and responsibilities relevant for implementation of the EPO budget have been defined according to these principles:

- strengthened accountability of budget holders by allocating budgetary provisions at the more granular level of activity and assigning each activity to a single budget holder

1 CA/F 13/23.
2 See Article 2 FinRegs.

- reinforced empowerment of budget holders by enabling them to reallocate budget among different activities falling within their responsibility
- increased support to budget holders in the monitoring and implementation of the budget by introducing dedicated advisory and supporting roles within PD Procurement and Vendor Management and PD Finance (see sections 2.2 and 2.3)

2.1 Involvement of the budget holder

For the purpose of activity-based budget management, budget holders as defined in Articles 1(4)(f) and 22a FinRegs are required to organise their units and assign their responsibilities according to the roles defined in this section.

2.1.1 Budget holder

The budget holder is either the principal authorising officer (PAO), or the authorising officer by sub-delegation (AO) appointed by the PAO to act as their main deputy or to perform tasks as defined in paragraphs 2.1.2, 2.1.3 and 2.1.4. Budget holders are responsible for the administration of budget appropriations allocated to any activity assigned to them in the SAP administration system.[1]

2.1.2 Operational approver

The operational approver is the AO in charge of the day-to-day administration of the budget within an operational area. The operational approver acts under the supervision of the budget holder.[2]

2.1.3 Travel budget holder

The travel budget holder is an AO appointed by the PAO, and is responsible for the administration of the travel budget and entrusted with the power to approve travel requests.

2.1.4 Delivery acceptance officer (DAO)

DAOs are AOs whose sub-delegated authorising powers are limited to:

- validation of the delivered goods or services[3] such that expenditures are correctly accrued for accounting purposes
- approval of invoices (FI invoices in FIPS, i.e. invoices without a purchase order).

1 Identified as Profit Center owner in the SAP administration system; usually the vice-president and/or principal director responsible for a specific activity.

2 Identified as Cost Center owner in the SAP administration system; usually a director reporting to the vice-president and/or principal director responsible for a specific activity.

3 The validation of delivered goods, services or work is implemented via Goods Receipts (GR) in the Procurement area via the approval of FI invoices (when no purchase order had been issued) or reimbursements.

2.1.5 Planner

Planners are specialised support staff entrusted by budget holders with validating financial assignments and checking budget availability for purchase and reimbursement requests. Planners are not empowered to authorise expenditures. They are also entrusted with the tasks of delivery acceptance officer (DAO, see above) for their respective areas of responsibility. They are therefore authorised to confirm the delivery of goods or services, and can approve invoices (FI invoices in FIPS, i.e. invoices without a purchase order).

2.2 Involvement of PD Procurement and Vendor Management ("Procurement")

Where documents intended for the President, the EPO's governing bodies or management bodies such as the MAC contain proposals for the award of a contract, they should be submitted by Procurement (see section 6.1 of the Directive Supplementing Certain Provisions of the Tender Guidelines).

Procurement must be involved at the earliest stage for planned procurements. The principal authorising officers will proactively provide input for the procurement plan (point 7.4 of the Directive supplementing certain provisions of the Tender Guidelines), such that Procurement can maintain a reliable planning tool using a 10-month rolling forecast. This will help to schedule resources, give advice and involve the expert units, if required, in a timely manner on all procurement requests. Exceptions to the above planning window will be reported to the President for validation.

All requests for support, advice or action to Procurement by principal authorising officers or their deputies should be submitted via the electronic tool provided. The procurement partners act as the key link between Procurement and other Office units.

2.3 Involvement of PD Finance

2.3.1 Budgeting implementation

To support and advise budget holders on budget management issues, PD Finance has assigned financial partners to each directorate-general (DG). Finance partners act as the key link between PD Finance and other Office units, acting as point of contact and advisor on all financial matters within the respective DG, including the co-ordination of budget transfers involving different budget holders and the quarterly forecast exercise as described under point 3 of this directive.

2.3.2 Internal financial controls and approval of award decisions

PD Finance is mandated with an Office-wide advisory and oversight role in relation to operations with financial implications[1]. Commitments exceeding EUR 15 000 are forwarded to PD Finance for information.

Any documents intended for the President, for the EPO's governing bodies or for management bodies such as the MAC containing proposals with material financial consequences should first be submitted in good time to PD Finance for countersignature and, where appropriate, opinion.

EPO departments are required to submit to PD Finance all documents which the latter deems necessary to scrutinise in order to fulfil its oversight role unless there are justified reasons for not doing so. Such reasons should be documented in writing and agreed with PD Finance.

3. Administration of funds

The activity-based budgeting in combination with enhanced processes and improved IT tools deployed from January 2024 provide increased reliability and flexibility in the administration of funds as detailed in this section.

3.1 General principles

Income, expenditure and posts under the budget must be handled in strict compliance with the Financial Regulations (see Articles 32 ff FinRegs) and relevant implementing rules, in particular the Tender Guidelines, the associated administrative instructions and the Directive on Contracts. The up-to-date versions of all rules currently in force can be consulted online in the Codex (Part III, 1) and via the link on the PD Finance intranet site. All those appointed as authorising officers have a duty to familiarise themselves with these documents and, if in doubt as to their interpretation, consult PD Finance.

3.2 Activity management

The 2025 budget has been drafted applying a bottom-up planning approach, where activities required for the functioning of the EPO and the achievement of its long-term goals have been thoroughly analysed by the responsible budget holders, with the support of their planners and finance partners, to estimate the associated expenditures and allocate the budgetary funds needed.

The administration of funds allocated to individual activities is entrusted to the responsible budget holders, who are empowered to use flexibly the budgetary allocations having regard to the framework set out in this

1 See Article 43 FinRegs.

directive and acting within the limits of their delegated and sub-delegated authorising powers.[1]

3.3 Forecasting

Budget holders must ensure that the budget appropriations they administer cover all expenditures incurred under the relevant activity during the accounting period. To optimise the use of resources and permit effective budget management, budget holders are required to submit, on a quarterly basis, an updated estimate of their total annual expenditure in SAP Analytics Cloud, broken down by activity, account, contributing cost centre, and providing separate estimates for strategic and operational expenditures. Budget holders are also required to provide PD Finance with an analysis of main deviations of budgetary allocations from the budget adopted by the Administrative Council or the previous forecast version, at activity and account level.

PD Finance will consolidate the input provided by the budget holders and submit an updated budget estimate, including a detailed list of budgetary reallocations between different activities and budget articles, to the President for approval.

Any budget transfer involving different articles which is requested outside the forecasting exercise will be entered into the exception register maintained by PD Finance and referred to the President for approval.

3.4 Exception and continuous improvement registers

With the aim of fostering continuous improvement, enhancing transparency and strengthening procurement and financial processes, all deviations from the standard procedures as set out in our regulations shall be appropriately authorised in advance by the President or by an authorising officer by delegation or sub-delegation acting within their powers and shall be reported using the exception register. PD Finance will conduct ex-post controls to identify deviations not reported through the exception register. These deviations will be filed in a dedicated register used for continuous improvement.[2]

3.5 Post management

To ensure that the table of posts in the budget is strictly adhered to, each post may be occupied by only one person.

Improvements in the organisational structure are the basis for any staffing action. Once approved by the President, business units will, with the support of HR business partners, start the execution of the staffing action in further co-ordination with Talent Planning before the assignment of any posts.

1 Overview on the Roles and Responsibilities of Authorising Officers involved in the Implementation of the Budget

2 See Procedure for requesting and recording of exceptions to and other deviations from model processes in the procurement value chain.

Any vacant posts outside the Board of Appeals staff complement are to be functionally assigned to the central reserve of the President without delay. In the case of examiner posts falling vacant, the examiner budget number where the post was previously assigned must be left unchanged so that the post can be identified as an examiner post and reused as such, should the need arise.

4. Concluding remarks and expectations

The provisions laid down in this directive supplement the rules and instructions provided in the Financial Regulations, the Tender Guidelines and their respective implementing rules. Authorising officers are reminded of their responsibilities and liability in exercising their role as detailed in those rules and instructions.[1]

The changes to the framework governing the budget implementation process introduced with this directive are aimed at making our organisation more financially aware, accountable, and efficient, contributing to the ultimate goal of ensuring the long-term financial sustainability of the EPO.

All authorising officers, budget holders and procurement officers are therefore expected to apply the above procedures and bring this directive to the attention of their staff handling financial matters.

I call on all budget holders to make every effort to ensure that forecasts at activity level, as well as the procurement plan, are accurate and up to date at all times. In this respect, I encourage budget holders to make use of the specialised support provided by financial partners and procurement partners.

I count on all authorising officers to administer funds proactively, releasing funds deemed not necessary without undue delay and providing thorough justification of any additional budgetary needs.

I require all staff involved in the administration of funds to be fully knowledgeable of the new processes and tools.

António Campinos
President

ANNEX: Accounting provisions relevant for implementation of the budget

1 See Financial Regulations of the European Patent Organisation; Tender Guidelines; Instructions for the implementation of certain provisions of the Financial Regulations; Directive on contracts; Directive supplementing certain provisions of the Tender Guidelines.

ANNEX

Accounting provisions relevant for implementation of the budget

1. Advance payments and direct debiting

According to Article 49(4) FinRegs, advance payments and direct debiting may be performed by way of exception if the circumstances so require. Such exceptional circumstances are present when these means of payment are without alternative or when they are part of a general business practice in the relevant sector such that goods, services or work needed cannot reasonably be obtained without them (e.g. such means of payment are needed to secure a reservation or an order; direct debiting is required for utilities; advance payments are demanded in order to obtain insurance, subscriptions or licences).

The corresponding expenditure must be committed in advance by the authorising officer in the budget period or periods in which the goods will be delivered or service rendered. If the advance payment relates to two accounting periods, the accounting officer may decide on the proportional allocation to the relevant accounting period(s) to avoid unnecessary administrative burden.

Where services delivered across the budget year require upfront payment (e.g. subscriptions), the underlying purchase requisition and purchase order can, for simplicity, be created in one single budget period, provided that for each budget year the misstatement in the budget execution and in the accounts remains below the threshold of EUR 50 000.

2. Processing of invoices (incoming/outgoing)

2.1 Incoming invoices

The EPO standard contractual terms and conditions require all suppliers to send invoices to a shared email address (accounts-payable@epo.org). If, exceptionally, a paper invoice is sent directly to you, please scan it and send it to accounts-payable@epo.org. Any misdirected invoice received via email should also be forwarded immediately to accounts-payable@epo.org, and the supplier should be invited to use this shared email address in future.

The EPO's governance and accounting principles require timely delivery confirmation and invoice verification. The service and/or goods delivery is to be confirmed by the competent authorising officer or a delegated acceptance officer in the accounting system. Please note that only the date of the service and/or goods delivery is relevant for determining the posting date and budget consumption, not the invoicing or payment date.

Depending on the selected procurement procedure, the delivery confirmation is different for

- orders with a standard purchase order: confirmation must be recorded by a goods receipt posting done via the accounting system. Evidence of delivery, such as a delivery note or timesheet, must be attached if the delivery is to be confirmed before the invoice is received and when such evidence is not included with the invoice.
- orders without a standard purchase order: confirmation must be recorded by confirming the respective invoice in the accounting system. No goods receipt posting is necessary for such cases.

In both cases, the budget holder has to confirm that goods have been delivered and/or services rendered, and that the prices and delivery date of the goods/services are all in compliance with the terms of the contract (or PO).

Authorising officers must process the booking of goods receipt – with the posting date of the month in which the services have been rendered or the goods received – and invoices without delay.

By clearing an incoming invoice for payment in the accounting system, authorising officers bindingly certify their personal responsibility and personal liability.

2.2 Outgoing invoices

Authorising officers for income accounts must process outgoing invoices or receipt orders without delay. By electronically posting an outgoing invoice in the accounting system or providing the information for issuing an invoice via the Sales & Distribution module, they bindingly certify, under their personal responsibility, that:

- the Financial Regulations and the implementing texts have been observed
- an item or service has been duly delivered or rendered by the EPO
- all supporting documents have been verified for correctness and compliance with the terms of the contract, either commercial contracts or in the form of agreements approved by the Administrative Council, and provide all necessary information in accordance with mandatory EU requirements for invoice processing (see also FIPS portal)
- the electronic posting of the outgoing invoice has been allocated to the correct accounting period, i.e. the period in which the goods or services were duly delivered or rendered by the EPO.

The authenticity of an authorising officer's/budget holder's electronic signature is guaranteed by a personal password known only to them. Therefore, this password must not be shared with others and no-one else should be allowed to use it.

3. Asset management

Authorising officers are reminded of their duty to ensure the accuracy of asset-related financial assignments upon which the correctness of asset accounting, and ultimately the compliance of EPO financial statements with relevant IFRS provisions, relies.

Capital expenditure must be assigned to budget activities (internal orders) in a manner that enables accurate tracking of the costs associated with individual projects and determination of the physical completion of projects. Overarching activities encompassing multiple projects or covering different sites should be avoided, as they hinder precise cost tracking and project monitoring.

Authorising officers must take the necessary steps to ensure that the physical availability of capital goods is verifiable at all times. The FinRegs provisions on keeping an asset register and on listing, in an inventory, items of property regardless of their value where sound financial management so requires (Article 61 FinRegs) must be strictly complied with.

Financial Regulations and Implementing rules

Directive on contracts

European Patent Office
The President

Munich, 17. February 2022

DIRECTIVE ON CONTRACTS

(Rule 3.2 Tender Guidelines - Point 6.5.2
Directive supplementing certain provisions of the Tender Guidelines)

Foreword

This Directive is being issued with a view to:

- ensuring legal certainty, efficient control and the uniformity of contracts concluded by the Office by:
    - providing legal advice on contracts falling within specified categories and the policies underlying such contracts through the compulsory early involvement of Legal Services (PD 5.2);
    - providing for Office-wide standardisation in contract conclusion through standard contract terms and other standard documents;
- providing rules for the signature and safekeeping of contracts.

Definitions

For the purposes of this Directive:

(1) The term "contract" covers any documents by which contractual obligations are entered into, including letters of intent. It equally covers the contract documents contained in invitations to tender.

(2) "Basic contract(ual) terms" means the various standard conditions of contract which lay down the Office's minimum mandatory legal requirements

- for safeguarding the status of the EPO as an international organisation, such as immunity from jurisdiction and execution, settlement of disputes and arbitration, and
- for contractual performance with a view to protecting the interests of the EPO, such as warranties, property rights, claims for damages, right to terminate and any form of security for the due fulfilment of the contractual obligations.

(3) "Basic financial terms" are: the type of price and the terms of payment (e.g. payment upon acceptance, progress payment against bank guarantee) as provided in the standard contract terms of the Office.

(4) "Information technology ("IT") system" means any combination of different computer equipment and/or software components that are organised so that they work together and interact for a common purpose.

(5) "Budget holder by sub-delegation" means the authorising officers by sub-delegation in accordance with Article 1(4)(f) FinRegs.

(6) "Procurement officer by sub-delegation" means the authorising officers by sub-delegation in accordance with Article 1(4)(g) FinRegs.

(7) "Principal budget holder" means the principal authorising officers in accordance with Article 1(4)(f) FinRegs.

(8) "Chief Procurement Officer" means the principal authorising officer in accordance with Article 1(4)(g) FinRegs.

1. Vetting of contracts

1.1 Critical contracts

Contracts in the following areas are subject to the compulsory involvement of Legal Services owing to their subject-matter and irrespective of their value:

(a) contracts for the sale, acquisition and long-term lease of immovable property;
(b) contracts for architectural or engineering services with architects, engineers or similar advisers as well as contracts with general contractors or general coordinating contractors relating to the construction of new buildings, or the reconstruction, extension, rebuilding or modernisation of existing buildings;
(c) contracts for IT systems and software specifically developed or adapted for use in the EPO;
(d) contracts concerning patent documents not yet published;
(e) contracts to be concluded with other intergovernmental organisations, the European Community institutions and bodies, public authorities and institutions or national patent offices,

unless otherwise provided in ad hoc arrangements between Legal Services and Central Procurement. Such ad hoc arrangements in principle will consist of the provision by Legal Services of standard contracts to Central Procurement.

1.2 Other contracts with a value up to EUR 100 000

For contracts not covered by point 1.1, which have a value up to EUR 100 000, the involvement of Legal Services is discretionary. However, the use of standard contract terms issued by Legal Services is strongly recommended to ensure protection of the EPO's interests and the streamlining of in-house contract approval procedures.

1.3 Other contracts with a value in excess of EUR 100 000

1.3.1 Contracts not covered by point 1.1 with a value in excess of EUR 100 000 are subject to compulsory involvement of Legal Services unless they are concluded on the basis of standard contract terms issued by Legal Services. In the latter case, no involvement of Legal Services is needed provided the provisos under points 1.3.2 and 1.3.3 below are complied with.

1.3.2 Legal Services will make standard contract terms specific to a recurring given type of contract available to Central Procurement.

The procurement officer is responsible for confirming that the standard contract terms of the Office were used and that they satisfy the requirements for the specific performance which is the subject of the contract.

1.3.3 The procurement officer must ensure that in the case of modifications or negotiations relating to standard contractual terms of the Office the interests of the EPO are sufficiently guaranteed. Under no circumstances may modifications concern basic financial or contractual terms.

1.3.4 Information on the standard contract chosen and any modifications thereto (points 1.3.2 and 1.3.3 above) must be placed on record so as to support the ex-ante approval procedure and the ex-post review and audit.

1.4 Amending contracts

Modifications of the contracts (amending contracts) which were subject to the involvement of Legal Services must be referred to Legal Services unless the budget holder and the procurement officer confirm that they relate to:

(a) the practical arrangements for the performance of an existing contract (e.g. minor changes to due dates; changes in the frequency or other mode or manner of reporting; changes of delivery or contact addresses; changes in the deliverables limited to technical upgrades or within the original general specifications);
(b) the exercise of rights or options which were fully provided for in an existing contract (e.g. extension of the duration and/or volume of the contract);
(c) an increase in the agreed performance (e.g. extension of the duration and/or volume of the contract not provided in the existing contract) which does not arise from legal difficulties and involves no further change, especially no change concerning the basic financial or contractual terms.

1.5 Use of contractor's own terms of business (contracts with a value in excess of EUR 100 000)

In exceptional cases, such as where the goods, services or work are only provided by a specific contractor or a few specific contractors on the basis of his/their own terms of business, use of the contractor's own terms of business may be allowed for a single specific contract or a specific type of contract (Directive supplementing certain provisions of the Tender Guidelines, point 3(g)). Any such requests, together with the relevant documents and a reasoned position paper, must be prepared by the budget holder and submitted via the principal budget holder to the Chief Procurement Officer, Legal Services and PD Finance for approval.

2. Involvement of Legal Services when issues linked to the international status of the EPO arise

When issues arise during the preparation or negotiation of contracts which affect the status of the EPO as an international organisation, such as conformity with the EPO's statutory rules and its privileges and immunities (e.g. exemption from taxes, duties or charges, arbitration, settlement of disputes) or where issues relating to the EPO's official activities arise, Legal Services must be involved irrespective of the kind of contract concerned and its value.

3. Vetting of CA documents

CA documents concerning the contracts under point 1.1 above are subject to the compulsory involvement of Legal Services.

4. Legal support for contracts for the Board of Auditors of the EPO ("the Board") and for the Reserve Funds for Pensions and Social Security of the EPO ("the Funds")

If requested by the Board or the Funds, legal support will be given by Legal Services for the preparation of contracts to be concluded on behalf of the Board (Article 75 FinRegs) and contracts for the Funds (Article 10(1) RFPSS Regs), except for investment activity within the meaning of the investment guidelines (Article 13(2) RFPSS Regs).

5. Legal Services' advice

Authorising officers or PD Finance may seek the advice of Legal Services on legal issues if the circumstances so require.

6. Time and mode of involvement of Legal Services

Legal Services must be involved early enough, taking all deadlines (procedural, operational and legal) into consideration, to ensure that it can provide useful legal advice on the content of the contracts and modifications thereto (amending contracts and settlements) and CA documents from the very outset (e.g. project preparation, invitation to tender, negotiations on the contractual terms arising from bidders' reservations or the assessment of bids by the Office). A comprehensive dossier must be made available in one of the official languages of the Office as soon as possible.

7. Standardisation

To ensure that standard contract terms issued by Legal Services are used and adapted to the Office's needs, the Chief Procurement Officer ensures that Legal Services is provided with feedback on the use of the standard contract terms and on the need for new standard contract terms.

8. Signing of contracts

8.1 Signing of contracts and amending contracts

8.1.1 Contracts with a value up to EUR 100 000 are validated by the budget holder by sub-delegation, unless these contracts fall under point 1.1(a) to (d) above, and are signed by the procurement officer by sub- delegation (cf. List of delegation of powers of signature on the Office's intranet, homepage of PD Finance).

8.1.2 Contracts with a value in excess of EUR 100 000 up to EUR 250 000, are validated by the principal deputy of the principal budget holder, unless these contracts fall under point 1.1(a) to (d) above, and are signed by the procurement officer by sub-delegation (cf. List of delegation of powers of signature on the Office's intranet, homepage of PD Finance).

8.1.3 Contracts with a value in excess of EUR 250 000 and contracts which fall under point 1.1(a) to (d) above with a value up to EUR 1 000 000 are validated by the principal budget holder. Except where points 8.1.1 and 8.1.2 apply, these contracts are signed by the Chief Procurement Officer.

8.1.4 Contracts under point 1.1(a) to (d) above EUR 1 000 000 are signed by the President after being validated by the principal budget holder unless the President decides to delegate the signature to the Chief Procurement Officer, either ad-hoc or for a particular category of contracts.

8.1.5 Contracts between the EPO and other intergovernmental organisations, the European Community institutions and bodies, public authorities and institutions or national patent offices (see point 1.1(e) above) are validated by the principal authorising officer and signed by the President unless the President decides otherwise, either ad-hoc or for a particular category of contracts.

8.1.6 Contracts falling under the Fund Administrator's authorising powers pursuant to the Regulations for the Funds are signed by the Fund Administrator.

8.1.7 Amending contracts are validated and signed:

(a) in accordance with point 8.1.1 in cases of the kind described in point 1.4(a) to (c) above;
(b) in accordance with points 8.1.1 and 8.1.2 above, where the total value of the amending contract does not exceed EUR 100 000, respectively EUR 250 000;
(c) by the President after being validated by the principal budget holder, where the total value of the amending contract exceeds EUR 1 000 000 and the contract falls within the ambit of point 1.1(a) to (d), unless a delegation to the Chief Procurement Officer as per point 8.1.4 has taken place, or where the existing contract was signed by the President and the modifications are not of the kind described in point 1.4(a) to (c) above;

(d) by the Chief Procurement Officer after being validated by the principal budget holder in all other cases.

8.2 Deputisation for the signing authority

8.2.1 The signing authority according to this Directive can be deputised for by an authorising officer in the event of absence or impediment, where no delay in the signature of the contract is justifiable. Only budget holders can deputise for other budget holders, and only procurement officers can deputise for other procurement officers.

8.2.2 Unless otherwise decided by the President:

- in the event of absence or impediment, the competent principal authorising officer is substituted by another principal authorising officer or by one of his principal deputies specifically designated for such purpose by means of a written instrument;
- in the event of absence or impediment, the President is substituted by a principal authorising officer.

8.2.3 In no circumstances shall deputisation or delegation lead to a situation where one and the same person validates and signs in cases where the validation and signature of two different authorising officers is provided for under this Directive.

8.3 Routing of contracts for signature

8.3.1 The procurement officer is responsible for obtaining the signatures in-house and from the other party. As a general rule, in-house signatures should be obtained first.

8.3.2 The originals of the contracts must be submitted to the signing authority in-house, together with the report on the award procedure under Rule 8 Tend. Guid. and any approvals due.

8.3.3 For the signature of contracts by the President, the originals of the contracts must be submitted to the President via PD Finance, Legal Services, VP 5 and the competent principal authorising officers (principal budget holder and Chief Procurement Officer).

9. Safekeeping of contracts

9.1 After signature by all parties, the originals of the contracts signed by the President and those signed on behalf of the Board, including all annexes, must be returned to Legal Services without delay for safekeeping.

9.2 The Fund Administrator is responsible for the safekeeping of the originals of all contracts, including all annexes, specified in point 8.1.6 above.

9.3 Central Procurement is responsible for the safekeeping of all other original contracts, including all annexes.

9.4 A copy of all the contracts which were subject to the involvement of Legal Services must be forwarded by Central Procurement to Legal Services without delay after signature by all parties.

9.5 The minimum period of safekeeping of signed contracts is twelve years starting from the date of expiry, termination or completed performance of the respective contract.

10. Implementation of contracts

10.1 Contracts are implemented under the respective responsibility and accountability of the competent authorising officers (budget holder and procurement officer) according to the provisions of the Financial Regulations.

10.2 Legal Services must be consulted immediately if legal difficulties arise:

(a) Requests for legal support must be accompanied by a comprehensive dossier in one of the Office's official languages, with a short summary giving a complete overview of the difficulties involved, any steps taken as well as any further information necessary to allow an assessment to be made, together with a copy of all documents cited.

(b) Legal Services must be provided with the above as soon as possible to allow for timely assessment, clarification and discussion internally/externally and any legal steps necessary well before expiry of operational/managerial and contractually agreed deadlines, as well as those laid down by law.

11. Calculation of amounts under this Directive

11.1 For the purpose of this Directive, the total contract value is to be determined on the basis of maximum possible annual expenditure or income times the contract term in years. Any form of option and any possible renewals must be taken into account. Where the term is open-ended (e.g. contracts with an automatic extension clause where no maximum possible extension period is specified), five years is to be used for calculation purposes.

Without prejudice to point 11.2 below, the value of amending contracts is calculated separately from that of the existing contract.

11.2 Contracts may not be split up with a view to evading the authorisations required by the Financial Regulations and implementing rules.

11.3 In case of doubt as to the calculation of the contract value, PD Finance must be consulted in good time.

12. Application of the exception provided in Article 22a(1) FinRegs

12.1 Where the President has made an exception under Article 22a(1) FinRegs, all references to Central Procurement must be read as references to the competent principal directorate and all references to the Chief

Procurement Officer must be read as references to the competent principal authorising officer.

12.2 Where tasks are assigned to or divided between the procurement officer and the budget holder, these are to be performed by the competent authorising officer.

12.3 Where contract signature by the Chief Procurement Officer is provided after validation by the principal budget holder, this is replaced by contract signature by the principal authorising officer after validation by the authorising officer by sub-delegation.

13. Final provisions

13.1 The thresholds in this Directive will be periodically reviewed.

13.2 This Directive will replace the Directive on contracts dated 1 January 2012 as from 1 April 2022.

António Campinos
President

Financial Regulations and Implementing rules

Tender guidelines

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GUIDELINES FOR THE PLACING OF CONTRACTS IN ACCORDANCE WITH ARTICLES 55 TO 60 OF THE FINANCIAL REGULATIONS OF THE EUROPEAN PATENT ORGANISATION

Having regard to Article 83 of the Financial Regulations,

Having consulted the Budget and Finance Committee,

the President has issued the Guidelines set out herein.

These Guidelines shall enter into force on 1 January 2018.[1]

Done at Munich, 21 December 2017.

Benoît Battistelli
President

1. Basic principles (Articles 2, 55(4), 55(5) and 56(4) FinRegs)

(1) All contracts shall be placed in accordance with the principles of economy and sound financial management. All award procedures shall be carried out in accordance with the principles of transparency, equal treatment, open and fair competition, proportionality and non-discrimination

(2) Invitations to tender shall be published internationally unless the nature of the contract or special circumstances justify making an exception (Rules 2.3 and 6.1.2). Calls for competition for the competitive procedure with negotiation shall be published internationally.

(3) Wherever possible, procedures for placing contracts shall be conducted, and contracts awarded, jointly for the Office's four locations in Munich, The Hague, Berlin and Vienna. The central procurement department shall normally be responsible for co-ordination.

2. Placing of contracts (Articles 55, 56 and 57 FinRegs)

2.1 Procedures for placing contracts (Articles 55(1) and (2) and 56(3) FinRegs)

Contracts shall be placed on the basis of an open invitation to tender or a restricted invitation to tender with a published notice. However, where the respective conditions set out in these Guidelines are fulfilled, contracts may be placed on the basis of a restricted tender without a published notice (Rule 2.3(3)), following a competitive procedure with negotiation (Rule 2.4), using a dynamic purchasing system (Rule 2.7) or direct without a prior invitation to tender (Rule 2.5). The contract award may be made either on a discretionary basis or on the basis of price alone.

1 Amended after consultation of the Budget and Finance Committee (CA/F 11/17)

2.2 Type of award (Article 56(1) and (2) FinRegs)

Invitations to tender and competitive procedures with negotiation may be with an award on a discretionary or price basis:

(1) The procedure whereby the contract is awarded on a discretionary basis, taking account of a variety of factors (Article 56(1) FinRegs), shall be preferred to one whereby the contract is awarded on the basis of price.

(2) The procedure whereby the contract is awarded on the basis of price to the lowest of the valid bids may only be considered where the type and characteristics of the goods, works or services to be provided are subject to fixed specifications (Article 56(2) FinRegs).

2.3 Restricted invitations to tender with or without a published notice (Articles 55(4) and 56(3) FinRegs)

(1) An invitation to tender may be restricted to qualified bidders that satisfy the selection criteria set out in the published notice.

(2) The Office shall evaluate requests to participate in the restricted tender against the selection criteria set out in the published notice. At least five bidders that satisfy the selection criteria shall be invited to submit a tender, provided that a sufficient number of candidates meeting the selection criteria are available.

(3) A restricted invitation to tender without a published notice may be used only where the protection of essential security interests of the Organisation cannot otherwise be guaranteed, for instance by imposing requirements protecting the confidential nature of information. The various potential bidders whose know-how, capacity and reliability to fulfil the contract have been established shall be considered and, if possible, at least five bidders shall be asked to bid. If this is not possible the reason for inviting a lower number of bidders shall be placed on record.

2.4 Competitive procedure with negotiation (Articles 55(1) and 56(4) FinRegs)

2.4.1 Contracts may be awarded in a competitive procedure with negotiation following a call for competition where, in technically particularly complex matters, it is not objectively possible to define sufficiently the technical solutions capable of satisfying the Office's needs and objectives to allow an open or a restricted invitation to tender. The call for competition shall lay down the scope of the negotiation. This scope must not be extended subsequently.

2.4.2 If possible, at least five potential bidders, who meet the selection criteria, shall be invited to participate in the competitive procedure with negotiation. If it is not possible to invite at least five potential bidders, the reason for inviting a lower number of bidders shall be placed on record. If not all

potential bidders, who meet the selection criteria, are invited to participate, the reasons for not inviting all of them shall be documented.

2.4.3 In the call for competition, the Office may reserve the possibility to award the contract without negotiation based on the initial bids. Except where such possibility has been reserved and is made use of, within the scope of negotiation defined in the call for competition, negotiations shall take place on the initial and any revised bids submitted in the competitive procedure with negotiations, in order to improve the content thereof.

The minimum terms, conditions and requirements and the award criteria defined in the procurement documents shall not be subject to negotiation.

2.4.4 Competitive procedures with negotiation may take place in successive stages. In this case, following each stage, the bidders shall be invited to submit revised bids, which shall be evaluated in accordance with the award criteria. Following that, the points to be negotiated in the next stage shall be identified and communicated to the respective bidder. If so indicated in the call for competition, following each such stage, the number of bids to be negotiated may be reduced by not retaining such bids, which based on their evaluation in accordance with the award criteria have the lowest rankings.

2.4.5 Following negotiation or, in procedures with negotiation in successive stages, following the last stage, bidders shall be invited to submit their final bids within a common deadline. Where the number of bids has been reduced in accordance with Rule 2.4.4, only retained bidders shall be invited to submit final bids. No negotiations shall take place with respect to the final bid.

2.4.6 The negotiations and their outcome shall be documented.

2.4.7 Throughout the procedure, the principles of transparency, equal treatment, open and fair competition, proportionality and non-discrimination (Rule 1(1)) shall be strictly observed. In particular, information shall not be provided in a discriminatory manner and no bidders may be given an advantage over others. The solutions proposed and other information communicated by a bidder to the Office during the procedure must not be communicated to other bidders, unless the bidder in question has expressly consented to such disclosure.

2.5 <u>Direct placing of contracts (Articles 55(2)(b) and 57 FinRegs) - Office's authority</u>

2.5.1 Contracts may be placed direct in the cases specified below. Provided that the contract exceeds EUR 5 000, the various potential offerors shall be considered and at least three qualified offerors shall be asked to submit an offer, unless this is excluded by the specific reason justifying the direct placement.

(1) As a general rule, whenever this is justified for reasons of efficiency and economy, contracts may be placed direct following the

competitive procedure described above for goods, works or services where the value of the contract does not exceed EUR 200 000 (Article 57(a) FinRegs).

(2) A contract may be placed direct for goods, works or services in cases of urgency brought about by unforeseeable circumstances and where the time limits for, and the delay involved in, an invitation to tender procedure would be unacceptable (Article 57(b) FinRegs).

(3) A contract may be placed direct for goods, works or services where an invitation to tender has been cancelled pursuant to Rule 6.6(1), first or second indent, and no better result is likely to be achieved by repeating the procedure (Article 57(c) FinRegs). This will generally be the case if sufficient competition can be achieved by including in the direct placement procedure those bidders whose bids have not been excluded in the examination phase and who have the know-how, capacity and reliability to fulfil the contract. The terms of the contract shall be substantially the same as those specified in the invitation to tender.

(4) A contract may be placed direct for goods, works or services for technical, practical or legal reasons (Article 57(d) FinRegs). Such circumstances will exist in particular in the following cases:

(a) for goods, works or services which can be provided only by a particular firm or person possessing the requisite technical know-how or equipment,

(b) for goods, works or services which are required for research, studies, tests or further development, or which call for particular innovative capacity,

(c) for goods, works or services which can be provided only by a particular firm or person owing to the existence of an intellectual and/or industrial property right or other exclusive right,

(d) for orders relating to the supply of goods obtainable as standard, fully developed items at published prices, if necessary together with the provision of ancillary services which are readily specifiable in general terms and available at standard market prices, provided that no better terms or no binding price offer can be expected through an invitation to tender or, where applicable, a competitive procedure with negotiation in view of the circumstances of the market, such as regular and substantial fluctuations in supply and demand or frequent changes in price, and the cost of issuing invitations to tender or, where applicable, carrying out competitive procedures with negotiation to cover the full period of the intended procurement would be disproportionate to any benefit. The aggregate value of orders so placed for the same type of goods with the same supplier may not exceed, during a period of one year, the value indicated in Rule 2.5.2,

(e) for follow-up orders to an existing or earlier contract, provided that the price asked is fair and reasonable compared with that originally charged (taking into account possible factors such as price indexing and the volume of the follow-up order compared with that of the existing or earlier contract) and an invitation to tender or, where applicable, a competitive procedure with negotiation would be unlikely to produce a more advantageous offer. Follow-up orders shall not exceed 20% of the value of the existing or earlier contract,

(f) for the purchase of spare parts and accessories for machinery, equipment, etc. from the original supplier where suitable parts are not available from other firms on better terms,

(g) for the additional supply of goods from the original supplier where the goods are to be used to replace or supplement existing goods and a change of supplier would oblige the Office to acquire goods having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance. This procedure may, as a general rule, be applied within a period of three years from the conclusion of the original contract,

(h) for additional works or services not included in the existing or earlier contract but which, through unforeseen circumstances, have become necessary for the performance of the works or services described in such contracts, in circumstances where such works or services cannot be technically or economically separated from the existing or earlier contract without disproportionate disadvantage to the Office or, although separable, are strictly necessary for its completion or for its later stages. The additional works or services shall, as a general rule, not exceed 50% of the value of the existing or earlier contract,

(i) for works or services which constitute a repetition of similar works or services pursuant to an earlier contract, and which are entrusted to the same contractor in view of the particular know-how acquired, or the technical infrastructure developed, by that contractor, in so far as these conform to the specification for which the earlier contract was awarded following an invitation to tender or a competitive procedure with negotiation. This procedure may, as a general rule, be used within a period of three years from the conclusion of the earlier contract,

(j) for legal-advice and legal-representation services.

2.5.2 The Office may place direct on its own authority the contracts referred to in Rule 2.5.1(1). It may also place direct on its own authority the contracts referred to in Rule 2.5.1(2) to (4) provided that the value of the contract or the overall value of the orders or additional goods, works or services does not exceed EUR 3 000 000. However, no ceilings limit the Office's

own authority with respect to contracts concluded under Chapters 32 and 42 and Article 3103 of the budget.

2.6 Framework agreements

2.6.1 The Office may conclude framework agreements in cases where it regularly concludes contracts for similar goods, works or services without being able to define the exact delivery times and/or the detailed requirements. The purpose of framework agreements is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

Framework agreements may not be used in such a way as to prevent, restrict or distort competition.

2.6.2 For the purpose of concluding a framework agreement, the Office shall follow the procedures set out in Rules 2.1 to 2.5 above.

Contracts based on a framework agreement shall be awarded in accordance with the procedures laid down in Rules 2.6.4 and 2.6.5. Any supplementary bids shall not entail substantial changes to the terms laid down in the framework agreement.

2.6.3 The term of a framework agreement may not exceed five years, save in exceptional cases duly justified, in particular by the subject matter of the framework agreement.

2.6.4 Where a framework agreement is concluded with a single contractor, contracts based on that agreement shall be awarded within the limits of the terms laid down in the framework agreement. Insofar as necessary, the Office may request the contractor in writing to supplement his initial bid.

2.6.5 Where framework agreements are concluded with several contractors, contracts may be awarded either:

(a) by application of the particular procedure laid down in the framework agreements which has to ensure fair competition and equal treatment of the contractors of the framework agreements, or

(b) where no such particular procedure is defined, by a competitive procedure between all of the contractors with which a framework agreement exists for the type of goods, works or services subject of the specific contract in question.

In the latter case, contracts shall be awarded in accordance with the following procedure:

- the Office shall invite the contractors in writing to submit a supplementary bid within the time limit specified in the invitation. The invitation shall also specify the criteria on the basis of which the contract will be awarded, and

- bids shall be submitted in writing within the time limit set by the Office and their content shall remain undisclosed until the stipulated time limit for reply has expired, and
- contracts shall be awarded to the contractor who has submitted the best bid on the basis of the criteria set out in the invitation, and
- bidders shall be informed of the results in accordance with Rule 6.5.3, and
- an award report shall be drawn up.

The criteria for the award of contracts under a framework agreement may not substantially differ from the criteria for the award of the framework agreement itself.

2.6.6 For the purpose of these Guidelines and the implementing rules thereof, framework agreements shall be considered to be contracts.

2.7 Dynamic purchasing system

2.7.1 For commonly used purchases the characteristics of which, as generally available on the market, meet the requirements of the Office, the Office may use a dynamic purchasing system. The system shall be fully electronic and shall be open throughout its validity period to any supplier that satisfies the selection criteria.

2.7.2 All the candidates satisfying the selection criteria set out in the published notice shall be admitted to the system, and the number of candidates to be admitted to the system shall not be limited.

2.7.3 When using a dynamic purchasing system, the Office shall:

(a) publish a notice stating that a dynamic purchasing system is being used, indicating the nature of the purchases envisaged under the system, its validity period, the selection and award criteria, the time limit for receipt of requests to participate and all necessary information concerning the electronic equipment used and the technical connection arrangements and specifications; and

(b) offer, from publication of the notice until expiry of the system's validity period, unrestricted and full direct access to the procurement documents and to any additional documents by electronic means.

2.7.4 The minimum time limit for receipt of requests to participate shall be 30 days from the date of publication of the notice. No further time limits for receipt of requests to participate shall apply once the invitation to tender for the first specific procurement under the dynamic purchasing system has been sent.

2.7.5 The system shall be open throughout its period of validity to any supplier that satisfies the selection criteria and has submitted a request complying with the conditions in the published notice.

2.7.6 Suppliers shall inform the Office without undue delay of any changes affecting their eligibility or capacity to perform the contract. At any time during the period of validity of the dynamic purchasing system, the Office may request that admitted participants submit updated evidence of their eligibility.

2.7.7 The Office shall assess requests to participate within 15 working days of their receipt. This assessment period may be extended; however, no invitation to tender may be issued during this extended period. The Office shall inform candidates at the earliest opportunity whether or not they have been admitted to the dynamic purchasing system.

2.7.8 The Office shall invite all admitted participants to submit a tender for each specific procurement under the dynamic purchasing system. The minimum time limit for receipt of tenders shall be at least 10 days from the date on which the invitation to tender is sent.

2.7.9 The contract shall be awarded to the bidder who has submitted the best bid on the basis of the award criteria set out in the published notice. If appropriate, those criteria may be formulated more precisely in the invitation to tender.

2.7.10 A dynamic purchasing system must not last for more than 5 years, unless a longer duration is duly justified and was provided for in the published notice.

2.7.11 For the purpose of these Guidelines and their implementing rules, dynamic purchasing systems shall be regarded as framework agreements, unless otherwise provided in this Rule 2.7.

3. In-house contract approval procedure - In-house procedure for obtaining contract approval from the Budget and Finance Committee or the Administrative Council

3.1 The procedure for in-house approval of Office contracts, including contract extensions, shall be as follows:

(1) Each planned award of a contract with a value in excess of EUR 15 000 shall be referred to the Principal Directorate Finance for a compliance check of the final report on the award procedure and of the award recommendation with the Financial Regulations and the applicable implementing rules and directives.

(2) Each planned award of a contract with a value in excess of EUR 15 000 and up to EUR 250 000 shall be referred to the competent principal authorising officer[1] for approval. However the competent principal authorising officer[2] may sub-delegate his authorising power to his principal deputies, except in the case of contracts to be placed direct

1 Budget holder unless an exception has been made under Article 22a, paragraph 1 FinRegs.
2 Budget holder unless an exception has been made under Article 22a, paragraph 1 FinRegs.

due to urgency (Article 57(b) FinRegs and Rule 2.5.1(2)) and for critical contracts set out in the internal directive on contracts.

(3) Each planned award of a contract with a value in excess of EUR 250 000 shall be referred to the competent principal authorising officer[1] for approval.

(4) Each planned award of a contract to be placed direct for reasons of urgency pursuant to Art 57(b) FinRegs and Rule 2.5.1(2) and with a value in excess of EUR 100 000 shall also be referred to the President for approval.

(5) Each planned award of a contract to be placed direct with a value in excess of EUR 250 000 and those to be placed on the basis of an invitation to tender or following a competitive procedure with negotiation with a value in excess of EUR 1 000 000 shall also be referred to the President for approval.

3.2 Contracts to be submitted to Legal Services in accordance with the internal directive on contracts shall be referred to Legal Services early enough to ensure preparation of the content of the contract and participation in the negotiations.

3.3 The designation of principal and other authorising officers is set out in Annex I.

3.4 The additional in-house procedures for obtaining prior approval from the Budget and Finance Committee or the Administrative Council with regard to contracts outside the Office's authority and for the report to the Budget and Finance Committee (Rule 4) are detailed in Annex III.

4. Procedure for obtaining contract approval from the Budget and Finance Committee or the Administrative Council and for reporting to the Budget and Finance Committee (Articles 57(b) and 58 FinRegs)

4.1 No prior approval from the Budget and Finance Committee or the Administrative Council is required for contracts concluded under Chapters 32 and 42 and Article 3103 of the budget. The procedure for obtaining approval of other contracts outside the Office's authority from the Budget and Finance Committee or the Administrative Council shall be as follows:

(1) Contracts with a value in excess of EUR 3 000 000 require prior Budget and Finance Committee approval (Article 58(1) FinRegs).

(2) Contracts for the acquisition, exchange or long-term lease of immovable property with a value in excess of EUR 3 000 000 require prior Administrative Council approval following consultation of the Budget and Finance Committee (Article 58(2) FinRegs).

1 Budget holder unless an exception has been made under Article 22a, paragraph 1 FinRegs.

4.2 A report to the Budget and Finance Committee shall be made:

(1) as soon as possible and in comprehensive form, for contracts with a value in excess of EUR 250 000 and up to EUR 3 000 000 and placed direct because of their particular urgency (Article 57(b) FinRegs).

(2) as soon as possible and in comprehensive form, for contracts concluded under Chapters 32 and 42 and Article 3103 of the budget, if the ceiling listed under 4.1(1) above has been exceeded (Article 58(3) FinRegs).

(3) by 30 June at the latest and in tabular form following the provisions laid down in the FinRegs, for all contracts from the preceding year with a value in excess of EUR 250 000, unless these contracts were otherwise referred or reported to the Budget and Finance Committee (Article 58(4) FinRegs).

5. Publication media, means of selecting potential contractors, time limits

Details of:

- the media to be used for publication of notices in the case of open and restricted invitations to tender,
- the means of selecting potential contractors in the case of restricted invitations to tender, without a published notice (Rule 2.3(3) above),
- the media to be used for publication of calls for competition in the case of competitive procedures with negotiation,
- the means of selecting potential contractors in the case of direct placement procedures, and
- the main time limits to be observed within an award procedure

are set out in Annex II.

6. Procedures to be followed with regard to invitations to tender

6.1 <u>Publication of an open invitation to tender and means of selecting potential contractors in the case of a restricted invitation to tender</u>

6.1.1 Open invitations to tender shall be published in the compulsory publication media set out in Annex II, point 1.

6.1.2 In the case of restricted invitations to tender without a published notice (Rule 2.3(3) above), the potential contractors shall be selected after a study of the market by using the appropriate means among those set out in Annex II, point 2.1. Market studies shall be objective, capable of identifying all potentially suitable bidders and auditable.

6.1.3 The reasons for choosing a restricted invitation to tender without a published notice (including the means of selecting potential contractors) and,

where applicable, the reasons for choosing an award procedure on the basis of price shall be placed on record by the authorising officer[1].

6.2 Published notices

6.2.1 Notices of open invitations to tender shall state:

(1) the name of the Organisation, together with the clarification that the Organisation is acting through the Office, and the name of the department from which conditions of tender should be requested and to which requests for clarification and bids should be sent,

(2) the award procedure chosen,

(3) the nature and scope of the contract and the place at which it is to be performed, such as the place of delivery or installation,

(4) any provisions regarding the contract's division into lots, the size of the different lots and the possibility of bidding for one lot or some or all lots,

(5) any guarantees required,

(6) the main terms of payment or a reference to the conditions of tender,

(7) stipulations as to delivery/completion dates,

(8) the expected date of award of the contract and the period for which bidders will be bound by their bids,

(9) where applicable, the non-acceptance of proposals for variants,

(10) the selection criteria establishing the bidders' know-how, capacity and reliability to fulfil the contract, any minimum capacity levels or particular qualifications required, as well as the information and evidence to be provided by bidders in this respect, or alternatively an indication that these are specified in the conditions of tender. The selection criteria shall be related and proportionate to the subject-matter of the contract.

(11) the criteria for the award of contract and their relative weighting or an indication that the criteria for the award of the contract and their relative weighting are specified in the conditions of tender,

(12) the final date for requesting the conditions of tender and, where applicable, clarification,

(13) any amount payable for the conditions of tender, the mode of payment and whether and in what circumstances payment may be refunded,

(14) the final date for receipt of bids.

1 Procurement officer unless an exception has been made under Article 22a, paragraph 1 FinRegs.

6.2.2 Notices of restricted invitations to tender shall contain the information specified in Rule 6.2.1(2) to (11).

Notices of restricted invitations to tender shall also state:

(1) the name of the Organisation, together with the clarification that the Organisation is acting through the Office, and the name of the department to which requests to participate in the tender procedure and information and evidence should be sent,

(2) the final date for receipt of requests to participate,

(3) where applicable, the maximum number of candidates who will be invited to tender.

6.2.3 The Office may authorise the submission of bids in writing by means other than by post or by hand to the post room, provided that the confidentiality of bids is ensured and that bids are authenticated by an electronic signature, encrypted and not opened until the date appointed for the opening of bids. The President may lay down instructions for the implementation of this rule. Where the submission of bids in electronic form is authorised by the Office, notices and letters of invitation shall state the procedure for encryption and decryption.

6.3 Letters of invitation and conditions of tender

6.3.1 The official letter of invitation shall contain all the information needed in order to submit a bid. In addition, letters of invitation to tender in the case of restricted invitations to tender without a published notice shall also contain the information specified in Rule 6.2.1(1) to (12) and (14).

6.3.2 The conditions of tender shall set out the terms and conditions governing the performance of the contract. They shall describe clearly and exhaustively the goods, works or services to be provided. They shall also indicate the selection criteria for assessing the know-how, capacity and reliability of the bidders and the criteria for an award of the contract and their relative weighting. Furthermore, they shall include an arbitration agreement covering all disputes arising out of or in connection with the tender. All documents forming part of the conditions of tender shall be forwarded to all prospective bidders.

6.4 Opening of bids

(1) Bids shall be recorded in the order of their receipt, including the date and time of arrival. Where appropriate, their envelopes shall be marked accordingly. They shall remain sealed and under lock and key or, where bids have been submitted in electronic form, the encryption shall be maintained, until the date appointed for the opening of bids. This shall take place immediately after the period for receipt of bids has expired.

(2) The formal opening of the bids shall be conducted and presided over by the procurement officer, assisted by at least one employee from another directorate. At the request of the department initiating the tender, there must be one employee from this department.

(3) Bid opening procedures shall not be public. Bidders may not attend. Bids shall be opened only if they are closed or encrypted and marked as prescribed and only if they arrive before the final date and time for receipt of bids. Bids received late or not closed or encrypted or marked as prescribed shall be considered and opened only if the reasons therefore are beyond the bidders' control, proof of which is required in writing. As soon as the bids have been opened, all their essential elements, including any annexes, shall be recorded and given an identifying mark.

(4) A record shall be kept of the proceedings. This shall show: place, date and time of commencement of proceedings, name and address of bidders, total price bid and total price per lot, or, where applicable, unit prices, other essential price information, any variants proposed, bids not clearly identified on the envelope as such or not closed or encrypted in the prescribed form, bids received late and reasons for lateness, bids not considered, date and time of closure of proceedings.

(5) The record shall be signed by the presiding officer and the assistants.

(6) The record shall be confidential. It may not be shown either to bidders or to the public.

6.5 <u>Assessment of bids and award of the contract</u>

6.5.1 Examination of bids

(1) Bids which have not been submitted in the prescribed time and form (Rule 6.4.3), do not contain a validating signature, contain changes to the conditions of tender which are not allowed or, because of the amendments or additions they contain, are unclear, need not be further examined.

Proposals for variants need not be further examined if either the possibility of submitting them has been excluded by the Office or they fail to meet the minimum mandatory requirements laid down by the Office for their submission.

(2) The remaining bids shall be examined in detail:

- It shall first be examined whether the bidders meet the selection criteria. The selection criteria concern the reliability, financial and economic standing, as well as technical and professional competence of bidders. They may require minimum capacity levels and particular qualifications.

- It shall then be examined whether the bids are complete, the calculations are correct, the price is not clearly out of proportion, and the technical content is correct, taking into account the technical and functional requirements in the invitation to tender.

(3) The results of the examination shall be placed on record.

6.5.2 Assessment of bids

(1) Only the bids from bidders, who fulfil the selection criteria shall be shortlisted and admitted to the assessment.

(2) For tenders for which the contract is not awarded on the basis of price alone, the shortlisted bids shall be evaluated on the basis of the award criteria and the contract shall be awarded to the most economically advantageous bid. The award criteria concern in particular the price, operating costs, technical merits, environmental aspects, delivery/completion dates, technical and financial guarantees offered and compliance with warranty requirements.

(3) Proposals for variants expressly requested or allowed by the Office in the invitation to tender shall be assessed in the same way as the principal bids.

(4) In cases where the price of the most economically advantageous bid submitted in response to an invitation to tender appears not to represent the market price or seems to contain unnecessary effort or disproportionately high costing of risks, price negotiations with the bidder having submitted the most economically advantageous bid may take place before contract award. Such price negotiations may not affect other aspects of the conditions of tender or of the bid.

(5) The results of the assessment and the reasons for the award of contract shall be placed on record.

6.5.3 Award of contract - Information

(1) Candidates who, in response to a restricted invitation to tender with a published notice, have unsuccessfully requested to be invited to participate in the procedure shall be notified in writing that they will not be invited. Unsuccessful bidders shall be notified in writing that their bid has not been selected. As a rule, the reasons why a request to be invited or a bid has been unsuccessful shall be given to the candidate or bidder concerned if he has made a written request for such information. The reasons shall be given in writing.

(2) The successful bidder shall be notified in writing before expiry of the period within which the contract has to be awarded and for which he is bound by his bid.

(3) If the award of contract is delayed, the period within which the contract has to be awarded may be extended only with the consent of the bidders whose bids have been shortlisted.

(4) Drafts, project documents, specimens and samples relating to unsuccessful bids shall be returned if so requested in the bid or if so requested within 20 working days from the date of notification to the bidder that he was unsuccessful.

Unsuccessful bids and project documents supplied by bidders may be used for a subsequent award of contract or for other purposes only with the permission of the bidders concerned.

6.6 Cancellation of the invitation to tender

(1) The Office may cancel an invitation to tender if

- no bid has been received, no bid has been received which complies with the tender requirements or no bidder fulfils the selection criteria,
- the invitation to tender has not produced an economically acceptable result,
- the basis for the invitation to tender has changed, or
- for any other serious reason.

(2) The reasons for which the Office has cancelled the procedure shall be placed on record.

(3) Bidders shall be notified immediately of the cancellation. As a rule, the reasons for cancellation shall be notified to bidders upon their written request.

(4) After cancellation, a new invitation to tender may be issued or the contract may be placed direct in accordance with Article 57 FinRegs and Rule 2.4.

7. Procedures to be followed with regard to competitive procedures with negotiation

7.1 Publication of a call for competition for a competitive procedure with negotiation and means of selecting potential bidders to participate in the procedure

7.1.1 Calls for competition shall be published in the publication media set out in Annex II, point 3.

7.1.2 The potential bidders to be invited to participate in the competitive procedure with negotiation shall be selected based on their response to the call for competition, in particular, to the selection criteria stated in the call for competition.

7. 2 Calls for competition

7.2.1 Calls for competition shall contain the information specified in Rule 6.2.1(2) to (8).

Calls for competition shall also state:

(1) the name of the Organisation, together with the clarification that the Organisation is acting through the Office, and the name of the department to which requests to participate in the competitive procedure with negotiation and information and evidence should be sent,

(2) the selection criteria establishing the bidders' know-how, capacity and reliability to fulfil the contract, any minimum capacity levels or particular qualifications required, as well as the information and evidence to be provided by bidders in this respect,

(3) the criteria for the award of the contract and their relative weighting, or an indication that these criteria and their weighting are specified in the procurement documents,

(4) the scope of the negotiations,

(5) whether negotiation may take place in successive stages in order to reduce the number of bids to be negotiated in the subsequent stages,

(6) whether the Office reserves the possibility to award the contract without negotiation based on the initial bids,

(7) the final date for receipt of requests to participate.

7.2.2 Rule 6.2.3 shall equally apply to requests for participation in response to calls for competition and to the initial and final bids submitted in competitive procedures with negotiation.

7.3 Letters of invitation and procurement documents

7.3.1 Letters of invitation to participate in a competitive procedure with negotiation shall describe in detail how the negotiations will take place and the scope and schedule for the negotiations. If successive stages of negotiation are foreseen, the scope of each negotiation stage shall be identified. Letters of invitation shall state the deadline for the submission of the initial bids in response to the letter of invitation.

7.3.2 The procurement documents shall contain a description of the terms and conditions for the contract, the subject-matter of the procurement, the Office’s needs and objectives and any characteristics required of the supplies, works or services to be procured. It shall be stated, which elements of the description define the minimum terms, conditions and requirements to be complied with by all bids.

The procurement documents shall state the criteria for the award of the contract and their relative weighting. Furthermore, they shall include an arbitration agreement covering all disputes arising out of or in connection with the procedure.

All documents forming part of the procurement documents shall be forwarded to all invited bidders.

In procedures with successive stages of negotiation, at the end of each stage revisions may be made to the procurement documents to specify more in detail the terms, conditions and requirements to be met by the revised bids or, where applicable, the final bids. Such revisions must not affect the minimum terms, conditions and requirements stated in the original procurement documents. Where the number of bids has been reduced in accordance with Rule 2.4.4, only retained bidders receive the revised procurement documents.

7.4 Opening of bids, assessment of bids and award of contract

The principles for opening of bids, assessment of bids and award of contract applicable to invitations to tender (Rules 6.4 and 6.5) shall equally apply to the initial and the final bids submitted in competitive procedures with negotiation.

The contract may not be awarded to a bidder whose final bid does not fulfil the minimum terms, conditions and requirements set out in the procurement documents.

8. Procedures to be followed with regard to direct placements

8.1 The reasons for placing the contract direct (Rule 2.5) and, where applicable, the underlying financial, technical and market conditions and the possible measures to restore competition over time shall be placed on record by the authorising officer[1]. Where applicable, the reasons for the means of selecting the potential contractors (point 4, Annex II) shall also be placed on record by the authorising officer[2].

8.2 Only an offeror who has the know-how, capacity and reliability to fulfil the contract may be considered for the award. The assessment of the offer shall be based on the principles applicable to invitations to tender. The results of the assessment and the reasons for the award of the contract shall be placed on record.

9. Report on the award procedure

A report on the award procedure and all the substantive decisions taken, including those specifically prescribed in these Guidelines, shall be drawn up. The main content is laid down in point 5 of Annex II.

1 Procurement officer unless an exception has been made under Article 22a, paragraph 1 FinRegs.
2 Procurement officer unless an exception has been made under Article 22a, paragraph 1 FinRegs.

ANNEX I

PRINCIPAL AUTHORISING OFFICERS; DELEGATIONS

A list of delegations of powers of signature available on the Office's Intranet (Homepage of PD Finance) specifies, by budget article, sub-account or cost centre, as the case may be, the principal authorising officers designated pursuant to Article 33(1) and (2) FinRegs as well as the authorising officers by sub-delegation designated pursuant to Article 33(3) and (4) FinRegs (principal deputies as per Rule 3.1(2) or their respective deputies). The list shall specify whether the authorising officers act as budget holders, as procurement officers, or whether the exception made under Article 22a(1) FinRegs applies.

Deputisations in the event of absence or impediment shall be in accordance with the list of delegations of powers of signature. Only budget holders can deputise for other budget holders, and only procurement officers can deputise for other procurement officers.

ANNEX II

COMPULSORY AND OPTIONAL PUBLICATION MEDIA, MEANS OF SELECTING POTENTIAL CONTRACTORS, MAIN TIME LIMITS TO BE OBSERVED WITHIN THE AWARD PROCEDURE, RECORDS

1. OPEN INVITATIONS TO TENDER AND RESTRICTED INVITATIONS TO TENDER WITH A PUBLISHED NOTICE

(Tender Guidelines, Rules 5, 6.1 and 6.2.1)

1.1 Compulsory and optional publication media

(a) Notices shall be published in the Supplement to the Official Journal of the European Union and in a special section of the EPO website.

(b) In addition to the publications specified in (a) above, the Office may publish a notice or an announcement of an invitation to tender, in the appropriate language, in national, regional or specialised publications.

(c) Notices in the Supplement to the Official Journal of the European Union and in a special section of the EPO website shall be in the three official languages of the Office. The optional notices and announcements in national publications shall be in the official language of the Office which is the official language of the country concerned or, in the case of a country whose official language is not one of the official languages of the Office, in the most appropriate of the official languages of the Office and, where this is likely to increase competition, in the official languages of that country.

1.2 Time limits to be observed

1.2.1 Open invitations to tender

(a) Period for the bidders to request conditions of tender: 2 weeks from the date on which the notice was published on the EPO website.

(b) Period for submitting bids: 5 weeks from the date on which the notice was published on the EPO website.

(c) Period for awarding the contract: before expiry of the period for which the bidder is bound by his bid.

The time limits under (a) and (b) shall be the minimum time limits permitted; longer time limits may be specified. The time limit for submission of the bids shall allow the bidders sufficient time for the preparation of their bid, taking into consideration the degree of complexity of the invitation to tender concerned.

1.2.2 Restricted invitations to tender

(a) Period for receipt of requests to participate: 2 weeks from the date on which the notice was published on the EPO website.

(b) Period for submitting bids: 3 weeks from the date on which the invitation to submit a bid is sent to the selected bidders.

(c) Period for awarding the contract: before expiry of the period for which the bidder is bound by his bid.

The time limits under (a) and (b) shall be the minimum time limits permitted; longer time limits may be specified. The time limit for submission of the bids shall allow the bidders sufficient time for the preparation of their bid, taking into consideration the degree of complexity of the invitation to tender concerned.

2. RESTRICTED INVITATIONS TO TENDER WITHOUT A PUBLISHED NOTICE

(Tender Guidelines, Rules 5 and 6.1.2)

The specific technical requirements and circumstances of the contract and the current and obtainable degree of knowledge of the relevant market shall be taken into account when choosing the appropriate means of selecting potential contractors. Market studies shall be objective, capable of identifying all potentially suitable bidders and auditable.

2.1 Means of selecting potential contractors (Tender Guidelines, Rule 6.1.2)

Any means of prospecting the market in an objective and auditable manner may be used, including:

(a) Obtaining information from chambers of commerce, professional associations or similar institutions

(b) Requesting comparable authorities and administrative bodies of contracting states to supply references

(c) Involving experts

(d) Consulting lists and/or databases maintained by the Office of potential contractors possessing the particular know-how, capacity or other qualifications which are required for the contract in question

(e) Consulting other suitable sources (Internet, obtaining an overview of prices but without incurring a commitment for the Office, etc.).

2.2 Time limits to be observed

(a) Period for submitting bids in the case of an invitation to do so, specifying final date for bidders to submit their bids: 3 weeks from the date on which the invitation to submit a bid is sent to the selected bidders.

(b) Period for awarding the contract: before expiry of the period for which the bidder is bound by his bid.

The time limits under (a) shall be the minimum time limits permitted; longer time limits may be specified. The time limit for submission of the bids shall allow the bidders sufficient time for the preparation of their bid, taking into consideration the degree of complexity of the invitation to tender concerned.

3. COMPETITIVE PROCEDURE WITH NEGOTIATION

(Tender Guidelines, Rules 5, 7.1 and 7.2)

3.1 Compulsory and optional publication media

(a) Calls for competition shall be published in the Supplement to the Official Journal of the European Union and in a special section of the EPO website.

(b) In addition to the publications specified in (a) above, the Office may publish a call for competition in the appropriate language, in national, regional or specialised publications.

(c) Calls for competition in the Supplement to the Official Journal of the European Union and in a special section of the EPO website shall be in the three official languages of the Office. The optional national publication shall be in the official language of the Office which is the official language of the country concerned or, in the case of a country whose official language is not one of the official languages of the Office, in the most appropriate of the official languages of the Office and, where this is likely to increase competition, in the official languages of that country.

3.2 Time limits to be observed

(a) Period for receipt of requests to participate in the procedure: 2 weeks from the date on which the call for competition was published on the EPO website.

(b) Period for submitting initial bids in the case of an invitation to do so: 3 weeks from the date on which the invitation to submit a bid is sent to the selected bidders.

(c) The periods for submitting revised and final bids in the case of an invitation to do so shall allow the bidders sufficient time for preparation of the bid. The period shall be the same for all bidders. For the final bids, it shall be a common period.

(d) Period for awarding the contract: before expiry of the period for which the bidder is bound by his bid.

The time limits under (a) and (b) shall be the minimum time limits permitted; longer time limits may be specified. In any case, the time limit for submission of the bids shall allow the bidders sufficient time for the

preparation of their bid, taking into consideration the degree of complexity of the subject-matter of the procedure and of the negotiations.

4. DIRECT PLACING OF CONTRACTS

4.1 Direct placement pursuant to Article 57(a) FinRegs
(Tender Guidelines, Rule 2.5.1(1))

Means of selection and time limits to be observed

(a) Selection of potential contractors as under point 2.1, having regard to the specific technical requirements or circumstances of the contract and market conditions

(b) Invitation to potential contractors to submit offers, specifying final date for receipt of offers which should give them sufficient time for preparation of their offer

(c) Period for awarding the contract after examining and assessing the offers: before expiry of the period for which the offeror is bound by his offer.

4.2 Direct placement pursuant to Article 57(c) and (d) FinRegs
(Tender Guidelines, Rule 2.5.1(3) and (4))

Means of selection and time limits to be observed

(a) Where appropriate, selection of potential contractors as under point 2.1, having regard to the specific technical requirements or circumstances of the contract and market conditions

(b) Invitation to potential contractors to submit offers, specifying final date for receipt of offers which should give them sufficient time for preparation of their offer

(c) Period for awarding the contract after examining and assessing the offers: before expiry of the period for which the offeror is bound by his offer.

5. REQUIRED CONTENTS OF THE REPORT ON THE AWARD PROCEDURE
(Tender Guidelines, Rule 9)

The report on the award procedure shall be drawn up by the procurement department or, if an exception has been made under Article 22a paragraph 1 FinRegs, by the responsible department. It shall set out in writing the formal sequence of the procedure; all decisions taken of a substantive nature shall be listed therein. This shall include in particular:

(a) The nature and scope of the goods, works or services and, if applicable, the division into lots.

(b) The award procedure chosen in the light of any relevant financial, technical and market conditions and, if applicable, the means used to identify potential contractors in the case of a restricted invitation

to tender or direct placement. Any special features need to be explained, such as the exclusion of candidates from the competition, any deviation from reasonable periods for submitting bids or offers or from periods for which the bidder or offer or is bound by his bid or offer and requests for clarification dealt with prior to the submission of bids or offers.

(c) The details and results of the examination of bids, of the assessment of bidders or offerors on the basis of pre-defined selection criteria and of the assessment of bids or offers on the basis of pre-defined award criteria and weighting factors, including details of any contacts with bidders or offerors after the submission of bids or offers. In this respect, in competitive procedures with negotiation, all negotiations and their outcome shall be documented. Where the competitive procedure with negotiation allows the reduction of the bids to be negotiated (Rule 2.4.4) the reasons for such reduction shall be recorded. Cancellation of the invitation to tender requires detailed justification.

(d) The proposed contractor, the reasons for awarding the contract to his bid or offer and the total expected value of the contract and, where applicable, individual lots. Any special features need to be explained, such as the use of sub-contractors, agreed contract penalties, financial guarantees or warranty periods.

(e) The in-house approval process, supplemented as necessary by approval from the Budget and Finance Committee or the Administrative Council.

ANNEX III

IN-HOUSE PROCEDURE FOR OBTAINING THE APPROVAL OF THE BUDGET AND FINANCE COMMITTEE OR THE ADMINISTRATIVE COUNCIL AND FOR THE REPORT TO THE BUDGET AND FINANCE COMMITTEE

(Tender Guidelines, Rule 3.4)

The timetable for preparing documents for submission to meetings shall be as follows:

(a) The document shall be published on the Office's intranet in the official languages by the deadlines specified by the Council Secretariat. If the decision lies with the Administrative Council, the matter shall be referred to the Budget and Finance Committee first.

(b) In-house procedure

- Drafting of document.
- Registration of document by Council Secretariat.
- Submission of document to President after consultation of PD Finance and competent principal authorising officers[1]; in the specific cases set out in the internal directive on contracts, involvement of Legal Services and Vice-President Directorate General 5.
- Forwarding of document to Council Secretariat.
- Council Secretariat arranges for: typing of fair copy, translation into the other two official languages, printing and despatch.

c) The time limit for submitting documents to the President is three months before the relevant Budget and Finance Committee meeting.

The procedures under (b) and (c) may be updated by the Office.

1 Budget holders and procurement officers unless an exception has been made under Article 22a, paragraph 1 FinRegs.

European Patent Office
The President

Munich, 1 January 2024

DIRECTIVE SUPPLEMENTING CERTAIN PROVISIONS OF THE TENDER GUIDELINES

This directive is being issued pursuant to Article 10(1) and (2)(a) EPC with a view to

- supplementing certain provisions of the Tender Guidelines and ensuring their uniform interpretation and application,
- ensuring compliance with the principles of transparency, equal treatment, open and fair competition, proportionality and non-discrimination of bidders (Article 55(5) FinRegs), and
- contributing to the financial administration of the Organisation in accordance with the principles of economy and sound financial management and, if applicable and to the extent compatible with those principles, with the principles of environmental sustainability (Article 2 FinRegs).

1. Advance fixing of selection criteria, award criteria and weighting factors

1.1 The selection criteria establishing the bidders' know-how, capacity and reliability to fulfil the contract and any minimum capacity levels or particular qualifications required are to be fixed before the procurement documents are issued.

1.2 For invitations to tenders and competitive procurement procedures for which the contract is not awarded on the basis of price alone, the award criteria and their relative weighting are to be fixed before the procurement documents are issued.

1.3 The selection criteria and the award criteria with their weighting factors may not be modified once the procurement documents have been issued or, if they were stated in the published notice or in the call for competition, once the notice or call for competition has been published.

1.4 The selection criteria and the award criteria with their weighting factors must be stated either in the notice or call for competition or in the procurement documents (Rules 6.2.1(10) and (11) and 7.2.1 Tend. Guid.).

2. Essential elements of the bid

Rule 6.4(3) Tend. Guid. requires the essential elements of bids to be recorded and given an identifying mark upon the opening of the bids. The following elements are always to be considered as essential:

(a) the signature validating the bid;

(b) the financial offer for the entire contract or individual lots/sub-lots thereof;

(c) the technical offer for the entire contract or individual lots/sub-lots thereof;

(d) the information and evidence required by the Office in order to be able to assess the bidder’s know-how, capacity and reliability;

(e) any other contractual or commercial information requested by the Office;

(f) proposals for variants (i.e. proposals consisting of deviations from or alternatives to specific aspects of the requirements specified by the Office).

3. Grounds for exclusion of bids and proposals for variants in the examination phase

The examination may give rise to the exclusion of bids. The following results are grounds for exclusion in the prima facie examination (Rule 6.5.1(1) Tend. Guid.):

(a) bids have not been submitted before the final date and time for receipt of bids or are not sealed, encrypted or marked as prescribed unless the reasons therefor are beyond the bidder's control and proof of this has been given in writing by the bidder;

(b) bids do not contain a validating signature;

(c) bids do not indicate the price or contain insufficient price details, thereby rendering the bid substantially incomplete or non-comparable with other bids;

(d) bids do not contain a technical offer;

(e) bids are not legally binding, or are not binding for the period required by the Office unless the deviation is minor, or, where the Office considers it appropriate to ask the bidder to prolong the period for which they are bound by their bid so as to make it comply, the bidder does not do so;

(f) bids are not in one of the EPO’s official languages;

(g) bids are not based on the EPO's contractual conditions unless the Office has expressly requested or allowed the use of other terms of business;

(h) bids do not comply with the mandatory procedural conditions of the invitation to tender or the call for competition;

(i) bids do not contain the information and evidence required for the assessment of the bidder's know-how, capacity and reliability, and the bidder does not provide any missing information and evidence within reasonable time after having been requested to do so.

The following results are grounds for exclusion in the detailed examination (Rule 6.5.1(2) Tend. Guid.):

(j) bids from bidders who do not fulfil the selection criteria establishing the bidders' knowhow, capacity and reliability to fulfil the contract, including bidders whose circumstances are such as seriously to call into question their financial or professional reliability (see Annex I);

(k) where the Office requires bidders to furnish proof that they are not liable for exclusion under point (j), evidence is not provided within a deadline set by the Office;

(l) bids from bidders who in connection with the award procedure have entered into agreements which prevent fair competition;

(m) in the case of an invitation to tender based on price alone, bids do not comply with the technical or financial requirements, or contain proposals for variants to those requirements;

(n) in the case of an invitation to tender on a discretionary basis or a competitive procedure with negotiation, bids do not comply with mandatory technical or financial requirements (i.e. where proposals for variants have been submitted, and either the possibility of making such proposals has been excluded, or the proposals fail to meet any minimum mandatory requirement laid down by the Office for the submission of such proposals; such non-compliance will not, however, lead to the exclusion of the bid if the noncompliance relates to an error in the Office's specifications and that error was indicated in the bid, or if the bid can be rendered compliant by minor changes);

(o) bids do not comply with the basic contractual terms or, in the case of a competitive procedure with negotiation, with the minimum contractual terms (i.e. where proposals for variants have been submitted, and either the possibility of making proposals for variants has been excluded, or the proposals fail to meet any minimum mandatory requirement laid down by the Office for the submission of such proposals). If a bid is of interest to the EPO for financial and technical reasons and it does not have to be excluded, negotiations may take place for the purpose of improving the bid with respect to proposals for variants or non-compliance with contractual terms;

(p) bids quote a price which is clearly out of proportion to the goods, work or services offered, or clearly so low that there is reason to believe that the bidder cannot comply with the technical or quality requirements specified in the procurement documents (in such a case, the bidder should first be given the opportunity to clarify the assumptions underlying their offer without this leading to any changes in prices);

(q) bids have submitted solutions which are clearly not feasible or do not comply with the subject of the award procedure.

Obvious errors are not grounds for exclusion. The correction of obvious errors takes place during the detailed examination. Corrections of obvious errors may be made by the Office but must be confirmed in writing by the bidders.

Obvious errors include:

- errors in the addition or multiplication of figures contained in a bid;
- calculations using for no apparent reason quantities other than those specified by the Office;
- unit prices apparently differing from the true prices by a factor of ten, one hundred or one thousand.

A request for information or clarification may not be used either by the Office or by the bidders in such a way that it leads to a substantial alteration to the bid, or substantially alters the Office's specifications. Clarification and information must be requested and provided in writing.

Notwithstanding the above, bids can be excluded at any later stage of the award procedure if a ground for exclusion becomes apparent.

4. Confidentiality

Records and reports relating to the award procedure and bids are confidential. Access has to be granted to the members of the Award Committee, their line managers, the competent authorising officers, the Vice-President DG 5, members of Legal Affairs, Procurement and Finance, Internal Audit and Professional Standards, the members of the Board of Auditors of the EPO and their assistants, and, so far as necessary for their tasks, to external experts advising on the examination/assessment of the bids.

5. Language of the award procedure

5.1 Choice of language

The award procedure must be conducted in one or more of the official languages of the Office. In practical terms, the language(s) of the procedure will be the same as in the first communication to the bidders or potential contractors, this being either the notice, a letter of enquiry or a letter of invitation to tender or offer, depending on the award procedure concerned.

In the case of a restricted invitation to tender without publication and of a direct placement, the language of these procedures must be the official language which appears appropriate in the circumstances (e.g. the language of the potential contractors, of the country where the Office unit responsible for the procedure is located, or of the country where the Office is to receive the goods or the results of the work or services, or which is commonly used in the field concerned).

In the event of an open invitation to tender, a restricted invitation to tender with publication or a competitive procedure with negotiation where the notice or the call for competition is to be in the three official languages (Annex II to Tend. Guid.), the language of the procedure may be limited to one or two of the official languages, if this is not an impediment to genuine competition (e.g. where a specific official language of the Office is the one which is commonly used in the particular field concerned, e.g. English in the IT field or where potential contactors must have a good command of a specific official language in order to fulfil the contract).

5.2 The documents relating to the procedure, in particular the procurement documents and the contract, are to be in the language of the procedure. Submission of a bid in an official language other than that selected for the procedure is not a ground for exclusion.

5.3 Exceptional cases which may give grounds for use of a national language which is not an official language of the Office

In the case of exceptional direct placement procedures for compelling legal or practical reasons relating to the contractor (e.g. procurement of basic services from a legal monopolist or purchase of real estate in a country where the national language is not an official language of the Office), the offers and contract may be in a language which is not one of the official languages of the Office. In such cases, the documents must be translated into one of the official languages of the Office, the translation and the original being equally valid.

6. Units and committees in charge of certain activities during the award procedure

6.1 The procurement officer

The procurement officer is responsible for the execution of the procurement procedures in compliance with the applicable regulations.

In particular, they are responsible for:

(a) agreeing to the procurement request provided by the initiating department;

(b) deciding on bundling possibilities;

(c) based on the input from the budget holder, choosing the award procedure, establishing the list of potential contractors and proposing the selection criteria and the award criteria with their weighting factors, and obtaining the budget holder's agreement thereto;

(d) ensuring that, for each individual procurement, the expert units likely to be involved in that procurement are provided (e.g. at a kick-off meeting) with adequate information on its scope, approach and structure, in addition to the information to be provided under point 7.4 below, and that those aspects are documented and – unless there are justified reasons not to do so – observed;

(e) advising the budget holders on the drafting of the Technical Conditions;

(f) deciding on the use of standard contract terms;

(g) collating, finalising and organising the translation of procurement documents, notices and letters;

(h) publishing and dispatching procurement documents, notices and letters;

(i) receiving and recording communications from bidders; co-ordinating and dispatching answers to bidders; the safekeeping of all these communications;

(j) collecting and recording bids according to Rule 6.4(1) Tend. Guid. and the safekeeping thereof;

(k) organising the opening of bids according to Rule 6.4 Tend. Guid. and taking all necessary logistical and administrative measures for its correct execution;

(l) conducting the bid-opening procedure;

(m) co-ordinating and supporting the overall evaluation process and assessment of bids;

(n) maintaining the integrity of the assessment method, including the evaluation matrix;

(o) setting up and - in accordance with point 6.4.3(a) - chairing the Award Committee, keeping a record of the proceedings;

(p) drafting the final report on the award procedure and all substantive decisions taken, including the award recommendation (Rule 9 Tend. Guid.) and thereby ensuring compliance with the Financial Regulations and the applicable implementing rules and directives;

(q) if required, preparing and co-ordinating in-house approvals of CA documents for contract approval by the Budget and Finance Committee or the Administrative Council, and of CA documents reporting award decisions to the Budget and Finance Committee (Articles 57(b) and 58 FinRegs);

(r) obtaining in-house approvals of the final draft contract;

(s) signing or initialling the contract as provided in the Directive on Contracts;

(t) collecting signatures of parties (in-house and other);

(u) informing unsuccessful bidders;

(v) the safekeeping of original contracts as provided in the Directive on Contracts.

The procurement officer has to ensure timely provision of information to and involvement of the expert units. The procurement officer also takes part in negotiations where such negotiations are admissible.

6.2 The budget holder

The budget holder is responsible for:

(a) initiating the procurement process by issuing the procurement request, identifying the characteristics and specifications of the required procurement and suggesting the choice of award procedure;

(b) verifying the correctness of the accounting provisions and the resulting availability of budgetary funds before initiation of the award procedure;

(c) providing Procurement with the information on the proposed scope, approach and structure of the procurement which is needed for the expert units involved;

(d) advising Procurement as to the means of selecting potential contractors;

(e) drafting the Technical Conditions and proposing the selection criteria and the award criteria and their weighting factors;

(f) agreeing to the procurement officer's choice of award procedure, the content of the procurement documents and the proposed final list of selection criteria and award criteria with their weighting factors;

(g) approving the award recommendation of the Award Committee;

(h) signing or initialling the contract as provided in the Directive on Contracts.

Exceptionally, in case of doubt as to the correctness or completeness of the evaluation, the budget holder may refer the matter back to the Award Committee for further evaluation. The budget holder shall, however, not make changes to the award criteria, weighting factors or marks. In the exceptional cases where the budget holder does not endorse the award recommendation of the Award Committee, the reasons must be put on record. In such cases, the matter must be escalated to the competent principal authorising officers (budget holder and Chief Procurement Officer) or, if necessary, to the President for decision.

6.3 The Opening of Bids Committee

6.3.1 The Opening of Bids Committee is composed of the officers mentioned in Rule 6.4(2) Tend. Guid.

6.3.2 The Opening of Bids Committee is responsible for the opening of bids (Rule 6.4 Tend. Guid.) and for the prima facie examination (Rule 6.5.1(1) Tend. Guid.) and related records.

Before opening bids for tenders and initial and final bids submitted in

competitive procedures with negotiation, the Opening of the Bids Committee must check that the selection criteria and the award criteria with their weighting factors were fixed before the procurement documents were issued. This must be confirmed in the record of the opening.

The exclusion of bids which arrived late or not in the prescribed form or as a result of other matters arising during the prima facie examination is decided upon by the officer presiding over the Opening of Bids Committee at the bid opening proceedings. Where appropriate, exclusion on the grounds under point 3(c) and (e) above may be referred to the Award Committee for decision.

6.4 The Award Committee

6.4.1 An Award Committee must be set up for each open and each restricted invitation to tender and for each competitive procedure with negotiation. The Award Committee is set up at the initiative of the procurement officer following the officer's approval of the procurement request.

6.4.2 The tasks of the Award Committee include

(a) laying down the time schedule;

(b) deciding the selection criteria establishing the bidders' know-how, capacity and reliability to fulfil the contract, the award criteria, the weighting factors and their assessment method, including the evaluation matrix;

(c) releasing the procurement documents, notices and letters for publication;

(d) the (detailed) examination, the resulting exclusion of bids (Rule 6.5.1(2) Tend. Guid.), the assessment of bids (Rule 6.5.2 Tend. Guid.);

(e) determining the scope of negotiations, where such negotiations are admissible;

(f) following the validation by the chair of the outcome of the tasks under (d), issuing the final report on the award procedure and making an award recommendation.

Within the Award Committee, the chair validates that the Award Committee performs the tasks listed in point 6.4.2(d) in conformance with the provisions of the Tender Guidelines, this directive and the procurement documents and agrees any changes necessary to the outcome of those tasks with the other members of the Award Committee.

6.4.3 The Award Committee must be composed of EPO employees:

(a) the chair, who will be the Chief Procurement Officer or a procurement officer delegated by them and

(b) the budget holder responsible for the award procedure or a staff

member delegated by them and

(c) on request, other representatives of the budget holder or of other organisational units having a specific interest in the execution of the contract and no hierarchical links with the budget holder. The budget holder may not be represented by over fifty percent of the members of the Award Committee.

6.4.4 If for any reason a member of the Award Committee is absent, they may exceptionally be replaced by a deputy.

6.4.5 The Committee may be assisted by experts for specific aspects; such experts have only an advisory role and are not entitled to vote or award marks. Only in exceptional cases may experts be persons other than EPO employees.

6.4.6 Any Committee member who has a personal interest in the outcome of the procedure must withdraw from the Committee.

6.4.7 The chair represents the Award Committee and is responsible for its proceeding in the correct manner. They convene its meetings.

6.4.8 The Award Committee will remain constituted at least until the final award recommendation has been endorsed or until the Budget and Finance Committee (or the Administrative Council) has approved the CA document in question and the contracts have been signed.

6.4.9 With respect to direct placements following a competitive procedure, the procurement officer has the competences and performs the tasks of the Award Committee.

6.5 Involvement of PD Finance and Legal Affairs

6.5.1 Involvement of PD Finance

6.5.1.1 The accounting officer:

(a) checks the compliance of the invoice payment documents with the Financial Regulations;

(b) executes the payment of the invoices according to the provisions of the Financial Regulations.

6.5.1.2 Department Budget Implementation and Compliance:

(a) co-ordinates the risk assessment of procedures involving award decisions subject to prior approval of the President, the Budget and Finance Committee or the Administrative Council;

(b) agrees, where applicable, to the CA documents for contract approval by the Budget and Finance Committee or the Administrative Council, and to the CA documents reporting award decisions to the Budget and Finance Committee ("financial approval");

(c) performs ex-post controls on award procedures to verify adherence

to model processes and applicable rules.

6.5.2 Legal Affairs must be involved where provided by the Directive on Contracts and in general if the circumstances so require (doubts about exclusion on legal grounds; interpretation of rules; results of the assessment requiring modifications to, or clarification or negotiation of, the terms of contract, the contract being subject to compulsory legal vetting, or modifications to basic financial or contractual terms of the Office; serious doubts about the grounds for cancellation).

7. Sub-delegation of authorising powers pursuant to Rule 3.1(2) Tend. Guid. – responsibility of the principal authorising officer

7.1 Pursuant to Rule 3.1(2) Tend. Guid., without prejudice to Rule 3.1(1) Tend. Guid., authorising powers relating to mandates to external lawyers for the areas of legal advice and legal representation (DG 5) up to EUR 250 000 will be sub-delegated by the principal authorising officer to the line manager in Legal Affairs to whom authorising powers have been sub-delegated.

7.2 The sub-delegation of authorising powers (Rule 3.1(2) Tend. Guid.) must be made in accordance with the procedures relating to the sub-delegation of authorising powers in place at the Office and within the limits laid down in the instrument of sub-delegation. Sub-delegation is without prejudice to the responsibility of the principal authorising officer and their duty of supervision. The sub-delegated officer may act only within the limits of the powers expressly conferred upon them.

7.3 The principal authorising officer (Chief Procurement Officer) takes the necessary measures to ensure the implementation of the Tender Guidelines and of this directive, and sees to it that any records and the report on the award procedure provided for in the Tender Guidelines are properly made and that the in-house procedures, as well as those vis-à-vis the Administrative Council and the Budget and Finance Committee, are followed.

The principal authorising officer (Chief Procurement Officer) ensures that the units of the Office initiating procurement receive appropriate logistical and administrative support on matters of procurement. They ensure that the standard general conditions of tender and conditions of contract as well as standard contract terms made available by Legal Affairs are used, where applicable.

7.4 The principal authorising officers (budget holders) ensure that the yearly contract plan is forwarded to Central Procurement in order to allow this unit to plan its involvement and advise at an early stage in the project or contract. Central Procurement must forward the relevant information to the expert units likely to be involved.

8. In-house procedure for obtaining the approval of the Budget and Finance Committee or the Administrative Council

Annex III, point (b), first and third indents, Tend. Guid. is to be implemented as follows:

– Drafting of document: the procurement officer, assisted by the expert units, is responsible for drafting the document in accordance with guidelines from the Council Secretariat, Language Services and PD Finance. Legal Affairs will be involved in the legal vetting of the document in the specific cases set out in the Directive on Contracts.

– Submission of document to the President: after checking and initialling by PD Finance and, in the specific cases set out in the Directive on Contracts, by Legal Affairs and the Vice-President DG 5, the document must be submitted to the President via the principal authorising officers involved (budget holder and Chief Procurement Officer).

9. Application of the exception under Article 22a(1) FinRegs

9.1 Where the President has made an exception under Article 22a(1) FinRegs the authorising officer is responsible for the tasks of the procurement officer as well as those of the budget holder.

9.2 Procurement must assist the authorising officer in performing tasks normally carried out by the procurement officer to the extent requested by the authorising officer.

9.3 In this case, the Award Committee is composed of EPO employees qualified in the technical and administrative disciplines in question and, on request, representatives of other organisational units having a specific interest in the execution of the contract. The chair is the authorising officer or one of their deputies. The provisions of points 6.4.2 and 6.4.4 to 6.4.8 apply.

10. Model documents for invitations to tender, competitive procedures with negotiation and direct placement procedures

Notices, calls for competition, letters and the record of the opening of bids mentioned in the Tender Guidelines are to be drawn up in accordance with the models approved by Legal Affairs.

11. This directive will replace the directive supplementing certain provisions of the Tender Guidelines dated 21 December 2017 with effect from 1 January 2024.

António Campinos
President

ANNEX I

EXCLUSION OF BIDS ON THE GROUND OF CIRCUMSTANCES SERIOUSLY CALLING INTO QUESTION THE FINANCIAL OR PROFESSIONAL RELIABILITY OF BIDDERS

Bids which are received from any bidder who

(a) is insolvent or bankrupt, or is in the process of liquidation, or who has entered into a composition agreement with creditors, or has ceased trading or is in any similar situation under the laws of the country in which they are domiciled

(b) is the subject of a petition in bankruptcy or an application for composition (or is themself making such a petition or application) or any similar proceedings under the laws of the country in which they are domiciled

(c) has been convicted of an offence that puts their professional reliability in question

(d) has been found by the Office to have been guilty of grave professional misconduct

(e) has failed to fulfil their obligations with regard to payment of taxes and levies under the laws of the country in which they are domiciled

(f) during the last three years has persistently failed to perform their obligations or has failed to perform one or more core obligations under one or more contracts concluded with the Organisation, which led to damages or other comparable sanction or to early termination,

may be excluded.

Financial Regulations and Implementing rules

Internal Audit and Professional Standards

EUROPEAN PATENT OFFICE CHARTER FOR INTERNAL AUDIT AND PROFESSIONAL STANDARDS

24.04.2024

Part I
Introduction

1) The Internal Audit and Professional Standards function is recognised as an important element of corporate governance in the European Patent Organisation (hereinafter referred to as "the Organisation"). This Internal Audit and Professional Standards Charter (hereinafter referred to as "the Charter") defines the mission, scope, authority and responsibilities of Principal Directorate Internal Audit and Professional Standards in the European Patent Office (hereinafter referred to as "the Office").

Part II
Mission

2) The mission of Principal Directorate Internal Audit and Professional Standards is to provide independent, objective assurance and other services designed to add value and improve the compliance, performance and quality of operations. It helps the Organisation to accomplish its objectives by bringing a systematic, disciplined approach to appraise and improve the effectiveness of risk management, control and governance processes.

Part III
Scope of work

3) Principal Directorate Internal Audit and Professional Standards encompasses the following functions:

- Internal Auditing: the examination and appraisal of the adequacy and effectiveness of internal control systems and the quality of performance in carrying out assigned responsibilities. In particular, Internal Auditing carries out thorough and systematic examinations to establish whether:
  - risks are appropriately identified and managed, including fraud risks and IT risks,
  - all relevant provisions of the Organisation are being observed,
  - the President’s directives and objectives are being implemented properly and effectively,
  - the internal control system and the information and operational systems are comprehensive and reliable,

- the assets are safeguarded and properly recorded,
- liabilities and commitments are properly recorded,
- operational procedures (including financial transactions) conform to the principles of efficiency, economy and effectiveness,
- quality and continuous improvement are fostered,
- accountability is ensured.

Internal Auditing may also provide advisory/consultancy services on issues concerning corporate governance, internal controls and other related matters.

Principal Directorate Internal Audit and Professional Standards' responsibilities in carrying out the Internal Auditing function for the Funds are described in the Regulations of the Funds. These details are not repeated in this Charter. The Internal Auditing function in relation to the rest of the Office is further explained in the Annex of this Charter.

- Quality Audit, monitoring the conformance to the requirements for delivering the Office's products, as set out in the European Patent Convention and the respective Guidelines for Examination and other instructions, and to the Quality Management System. These details are not repeated in this Charter.

- Compliance and risk assurance services in the area of the Reserve Funds for Pensions and Social Security (hereinafter referred to as "the Funds"), in accordance with the Regulations of the Funds, and for the EPO Treasury Investment Fund (hereinafter referred to as “EPOTIF”) as part of the governance of the EPOTIF. These details (including planning, procedure and reporting) are not repeated in this Charter.

- Ethics and Compliance[1]: developing and maintaining a comprehensive ethics and compliance programme, including the Handbook of Workplace Ethics, for the benefit of all EPO staff members and other stakeholders, as well as the organisation overall. Directorate Ethics and Compliance promotes the EPO’s values, integrity, business ethics and accountability throughout the Organisation, and advises on the consistency between the EPO’s values, the Handbook for workplace ethics and relevant internal regulations and practices. It provides safe, adequate and readily available means of reporting integrity concerns. It carries out administrative investigations in accordance with Article 21a of the Service Regulations and the Implementing Rules to Articles 21, 21a, and 93(2). It conducts proactive reviews in integrity risk-prone areas of the Office on the basis of integrity risk assessments, which result in recommendations to operations to address integrity breaches and risks detrimental to staff and to the organisation.

- Ombuds Office: a neutral, independent, informal and confidential service for the Office’s internal and external stakeholders. It empowers stakeholders to put their stalled processes back on track and to build

1 See CA/58/17

healthy and meaningful working relationships for concrete, lasting improvement in the value, predictability and consistency of service delivery.

- Other assurance services as specified by the President.

Part IV
Authority and responsibilities

4) As part of the Office, Principal Directorate Internal Audit and Professional Standards shall operate on the basis of the Organisation's regulations, complemented by the provisions set out in this Charter and generally recognised professional standards.[1]

5) Principal Directorate Internal Audit and Professional Standards' work shall be carried out on the President's behalf (or on behalf of the Supervisory Board of the Funds). The Principal Director Internal Audit and Professional Standards shall report administratively to the President, be directly subordinate to them alone and be answerable to them for disciplinary purposes.

6) The risk assurance and compliance officer functions of the Funds shall report solely to the Principal Director Internal Audit and Professional Standards. For this purpose, due to the prerogatives of the Fund Administrator and of the Supervisory Board of the Funds, the functional reporting line for the Principal Director Internal Audit and Professional Standards when dealing with Funds-related matters shall be to the Supervisory Board of the Funds. This shall apply in particular to audit plans and audit reports (Resources for this task will be allocated by the President to the Principal Directorate Internal Audit and Professional Standards as appropriate, taking into account proposals from the Supervisory Board of the Funds.)

7) The Director Ethics and Compliance shall report directly to the President on administrative investigations into potential misconduct.

8) In the framework of their mission, Principal Directorate Internal Audit and Professional Standards staff members and any person duly assigned by the Principal Director Internal Audit and Professional Standards shall have full, free, prompt and direct access to all functions, records, property and personnel pertinent to carrying out their work, subject to accountability for confidentiality and safeguarding of records and information, and EPO data protection regulations.

9) The Office's staff members shall have a duty to fully co-operate with Principal Directorate Internal Audit and Professional Standards.

10) The Principal Director Internal Audit and Professional Standards shall have no authority to issue operational instructions. Principal Directorate Internal

1 The Internal Auditing function performs its audits according to its generally recognised professional standards, namely the International Professional Practice Framework (IPPF) issued by the Institute of Internal Auditors, including the Code of ethics of the Institute of Internal Auditors.

Audit and Professional Standards staff members shall not engage in any work or in operational duties which would compromise their function of independent objective appraisal and report.

Part V
Independence

11) The activities of the Principal Director Internal Audit and Professional Standards as described in this Charter must be free from interference.

12) The Principal Director Internal Audit and Professional Standards shall report only to the President (except for the duties specified above on behalf of the Supervisory Board of the Funds) and shall attend the meetings of the governing bodies (such as the Administrative Council, the Budget and Finance Committee and the Supervisory Board of the Funds).

13) Principal Directorate Internal Audit and Professional Standards shall at the end of each year prepare a report covering the activities of the year and confirming whether the organisational independence of Internal Audit and Professional Standards, in accordance with this Charter, has been maintained. The Principal Directorate Internal Audit and Professional Standards shall submit this report to the President, with a copy to the Board of Auditors.

Part VI
Proficiency

14) Principal Director Internal Audit and Professional Standards personnel shall perform their tasks with proficiency and due professional care.

15) Principal Directorate Internal Audit and Professional Standards staff members must enhance their knowledge, skills and other competence through continuing professional development.

Part VII
Standards of conduct

16) Due to their specific role, authority and responsibilities in the corporate governance of the Organisation, Principal Directorate Internal Audit and Professional Standards personnel are expected to apply and uphold the highest standards of conduct set out in the Service Regulations (Chapter 1 - Conduct of employees).

All Principal Directorate Internal Audit and Professional Standards staff members are expected to apply and uphold the following principles:

1. **Integrity**

   The integrity of Principal Directorate Internal Audit and Professional Standards personnel establishes trust and thus provides the basis for reliance on their judgment.

2. **Objectivity**

   Principal Directorate Internal Audit and Professional Standards personnel exhibit the highest level of professional objectivity in the way they gather, evaluate and communicate information about the activities they appraise and report on. They make a balanced assessment of all the relevant circumstances and are not unduly influenced by their own interests or by others in forming judgments.

3. **Confidentiality**

   Principal Directorate Internal Audit and Professional Standards personnel respect the value and ownership of information they receive and do not disclose information without appropriate authority unless there is a legal or professional obligation to do so.

4. **Competency**

   Principal Directorate Internal Audit and Professional Standards personnel apply the knowledge, skills and experience needed in the performance of Principal Directorate Internal Audit and Professional Standards services.

Part VIII
Approval and revision

17) The Principal Director Internal Audit and Professional Standards shall review the Charter regularly and propose changes when necessary for approval to the President.

Annex: Internal Audit Charter

ANNEX

Internal Audit Charter

Part I.
Introduction

1) Internal Audit is an important element of corporate governance in the European Patent Office (hereinafter referred to as “the Office”).

2) This Internal Audit Charter defines the purpose, tasks, rights and obligations of Internal Audit.

Part II.
Purpose and Mission

3) The purpose of Internal Audit is to provide independent, objective assurance services designed to add value and improve the Office’s operations.

4) The mission of Internal Audit is to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight.

Part III.
Scope of work

5) Internal Audit helps the Office accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness and efficiency of risk management, control and governance processes, with special reference to the following aspects:

- risks are appropriately and continuously identified and managed
- Office’s regulations and other legal provisions are being observed
- the President’s directives are being implemented properly
- the Office’s objectives are being achieved effectively and efficiently
- the internal control system and operational systems are comprehensive and reliable
- procedures conform to the principles of efficiency, economy and effectiveness
- quality and continuous improvement are fostered

Part IV.
Authority and responsibilities

6) As part of the Office, Internal Audit shall operate on the basis of the Office's regulations, complemented by the provisions set out in this Internal Audit Charter and the International Professional Practice Framework (IPPF) of The Institute of Internal Auditors.

7) Internal Audit’s work shall be carried out on the President’s behalf.

8) Internal Audit's authority and responsibilities for work carried out on behalf of the Supervisory Board of the Reserve Funds for Pensions and Social Security (hereinafter referred to as "the Funds") are described in the Regulations of the Funds and not repeated in this Charter.

9) Internal Audit personnel and any person duly assigned by the Head of Internal Audit shall have full, free and unrestricted access to all functions, records, property and personnel pertinent to carrying out their work, subject to accountability for confidentiality and safeguarding of records and information.

10) Managers and other personnel shall have a duty to fully co-operate with Internal Audit.

11) The Head of Internal Audit shall have no authority to issue operational instructions. Internal Audit personnel shall not engage in operational duties which would compromise their independency and objectivity.

Part V.
Independence and objectivity

12) Internal Audit has no executive role or authority and has no operating responsibilities. It will remain independent of the activities under review. The activities of the Internal Audit shall be free from interference.

13) The Head of Internal Audit shall at the end of each year prepare an annual activity report and confirm whether the organisational independence of Internal Audit has been maintained. The Head of Internal Audit shall submit this report to the President, with a copy to the Board of Auditors.

14) Internal Audit has access to the meetings of the governing bodies (such as the Administrative Council, the Budget and Finance Committee and the Supervisory Board of the Funds).

Part VI.
Planning, reporting and follow-up

15) The Head of Internal Audit shall submit annually to the President for approval proposals for a risk-based Medium-Term Plan which shall cover a three-year period on a rolling basis and an Annual Programme.

16) In preparing the Medium-Term Plan and the Annual Programme, the Head of Internal Audit shall seek the views of the Vice-Presidents of the Office and shall consult with those who have operational responsibility for the core systems of control in the Office.

17) The Head of Internal Audit shall maintain appropriate and regular communication with the Board of Auditors and send to them the Medium-Term Plan and the Annual Programme and all internal audit reports.

18) The President may, at any time, require the Head of Internal Audit to amend the Medium-Term Plan or the Annual Programme and to undertake a specific internal audit task.

19) The Head of Internal Audit shall seek comments on draft version of internal audit reports from the audited units. Responses received within the established deadlines shall be taken into account and reflected, as appropriated, in the final report.

20) The Head of Internal Audit shall submit internal audit reports to the President for decision on the recommendations.

21) The Head of Internal Audit shall forward internal audit reports to the management of the audited units. The implementation of any recommendation endorsed by the President shall belong to the responsibility of the unit as indicated in the internal audit report.

22) An action plan shall be prepared by the responsible unit within six weeks of the President's endorsement of the recommendations.

23) Any recommendation shall, after the relevant implementation date has passed, be the subject of a follow-up. The President shall be informed regularly about the implementation status.

Part VII.
Fraud

24) Internal Audit has responsibility to evaluate the potential for the occurrence of fraud and how the Office is managing fraud risk.

Part VIII.
Proficiency

25) Internal Audit personnel shall perform their tasks with proficiency and due professional care.

26) Internal Audit personnel shall maintain and enhance their knowledge, skills and other competence through continuing professional development.

Part IX.
Approval and revision

27) The Head of Internal Audit shall review regularly the Internal Audit Charter and propose changes when necessary for approval to the President.

Sustainable Procurement at the European Paten Office

SUSTAINABLE PROCUREMENT AT THE EUROPEAN PATENT OFFICE[1]

1. Sustainability values

The European Patent Organisation, acting through its executive organ the European Patent Office (EPO), is committed to fostering, supporting and promoting sustainability in all of its activities, including procurement. By embracing sustainable public procurement, the EPO aims to address the impact of the goods, services and works that it purchases on society, the environment and the economy.

Sustainable public procurement can also be a major driver for innovation, providing industry with real incentives to develop sustainable products and services. The EPO recognises that public buyers should not merely look to purchase at the lowest price and obtain cost reductions for goods and services. Instead, public procurement should also seek to create social benefits, while preventing or mitigating any adverse social and/or environmental impact generated by the completion of a contract.

2. Principles of sustainable public procurement at the EPO

The EPO seeks to achieve high standards of integrity, inclusivity, transparency and stewardship in its supply chain. It conducts business with responsible suppliers, i.e. companies that respect the rule of law and human rights, understand the nature and impact of the products, materials and production and transport methods they provide and use, and recognise their duty to protect the environment.

The EPO aims to foster these goals by engaging in a constructive dialogue with its suppliers. It seeks to identify areas of higher risk and influence within its supply chain and engage with suppliers in those areas to ensure that they:

- consider their labour practices, especially work, health and safety conditions, and comply with applicable social and labour law, as well as occupational health and safety laws as established by the International Labour Organisation (ILO) conventions, European Union law, national law and collective agreements;
- minimise their impact on the environment, specifically in terms of resource use, pollution, protecting biodiversity and reducing emissions;
- contribute to community involvement and development by fostering employment and access to services, while respecting the local culture;
- promoting gender equality, including the principle of equal pay for work of equal value, and fighting discrimination based on gender, age, disability, racial or ethnic origin, religion or beliefs and sexual orientation;

1 Adopted by decision of the President of the European Patent Office from 3 July 2023 and made available on the Intranet on 21 December 2023.

  - quality and continuous improvement are fostered,
- employ ethical operating practices, notably in the areas of anti-corruption and fair competition;
- take measures to prevent and/or mitigate any adverse social and environmental effects of their operations;
- report regularly to the EPO.

3. Criteria

In all of its procurement activities, the EPO will take into consideration its procurement principles and apply the minimum requirements listed below. Where possible, the EPO will also take the discretionary criteria set out in section 3.2 into consideration.

3.1 Minimum requirements

In terms of respecting workers' rights, the EPO requires its partners to ensure adherence to the rights and obligations set out in all fundamental ILO conventions across their supply chain.

The EPO also requires suppliers to comply with applicable national law on the protection of flora, fauna and the environment, as well as the conservation of natural resources and the prevention and reduction of pollution and emissions.

3.2 Discretionary criteria

In its evaluation, the EPO will consider suppliers' policies on the social and environmental impact of their business activities and their adherence to those policies. It will assess their ethical business practices, social and employment policies, as well as the goods and services offered by suppliers and how they minimise their adverse social and environmental impact. Specifically, the EPO will look at suppliers':

- use of natural resources (quantity and quality), including water, minerals, metals, wood, soil, rare earths, coal, petroleum, crude oil and natural gas;
- direct and indirect carbon emissions, including those resulting from energy consumption and other gaseous pollutants;
- production or emission of liquid and solid pollutants, including industrial waste and wastewater, biological or chemical contaminants and microplastics;
- rules, guidelines and practices relating to equal pay, equal employment conditions and a respectful workplace;
- rules, guidelines and practices to ensure accessibility, inclusion and health in the workplace;
- rules, guidelines and practices to prevent fraud, corruption, money laundering, terrorism financing and any other form of corporate crime.

6tion, transportation and delivery of products throughout its supply chain.

Suppliers are expected to be in a position to inform the EPO about their compliance with these criteria during the tender procedure and at any stage in the contract cycle.

The EPO will seek to achieve its objective of minimising any adverse social and environmental impact by introducing relevant contractual obligations and discussing this topic with suppliers throughout the contract cycle.

4. Best practice

The EPO will apply appropriate evaluation criteria to ensure that its sustainability principles are upheld in its daily procurement activities. It will also take into account existing best practices on sustainable procurement outlined in the publications below:

- Directive 2014/23/EU of the European Parliament and the Council of 26 February 2014 on the award of concession contracts;
- Directive 2014/24/EU of the European Parliament and the Council of 26 February 2014;
- EU Green Public Procurement criteria for relevant procurement areas published by the European Commission;
- EU Notice "Buying Social – A guide to taking account of social considerations in public procurement" – Second edition (2021/C 237/01);
- EU Notice "Buying green – A handbook on green public procurement" – 3rd Edition.

5. Entry into force

This policy enters into force on 1 January 2024.

Rules of procedure of the Administrative Council

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33, paragraph 2(b) and (e), thereof,

HAS DECIDED AS FOLLOWS:[1]

Part 1: Attendance at meetings

Article 1
Members

(1) The names of the Representative and the alternate Representative (hereinafter referred to as "Members") appointed by each Contracting State to the Administrative Council (hereinafter referred to as the "Council") in accordance with Article 26, paragraph 1, of the European Patent Convention shall be notified by that State to the President of the European Patent Office. The President of the European Patent Office shall notify the Contracting States and Members thereof.

(2) Members shall take up their duties on the day on which the President receives notification of their appointment.

(3) Members may take part in all deliberations of the Council and may vote on behalf of their Contracting State.

(4)[2] Any Member prevented from attending a meeting may arrange to be represented by another member of their delegation (Article 2, paragraph 2). Alternatively, in the case of a meeting with physical presence (Article 8, paragraph 2), a Member may, when prevented from attending in person, choose to attend remotely through electronic means. In either case, the Council Secretariat (Article 6) shall be informed of such arrangements in advance and in writing.

Article 2
Delegations

(1) Unless the Council decides otherwise in a particular case, Members may be assisted by advisers or experts (Article 26, paragraph 2, of the European Patent Convention). The Council Secretariat (Article 6) shall be informed of their names in writing.

(2) The delegation of each Contracting State shall be composed of its Members together with their advisers and experts.

1 Revised by decision of the Administrative Council CA/D 8/06.
2 Revised by decision of the Administrative Council CA/D 6/21.

Article 3
States with right of accession

Representatives of States which have the right to accede to the European Patent Convention in accordance with Article 166, paragraph 1, of that Convention may, until their ratification or accession takes effect, take part in those deliberations of the Council which do not relate to confidential agenda items (Article 9, paragraph 3).

Article 4
Chair

(1) The Chairperson of the Administrative Council (hereinafter referred to as the "Chairperson") elected in accordance with Article 27, paragraph 1, of the European Patent Convention shall be responsible for the work of the Council and the exercise of its functions. In the exercise of this duty the Chairperson shall closely co-operate with the President of the European Patent Office. All the provisions of the present Rules of Procedure concerning the Chairperson shall apply mutatis mutandis to the Deputy Chairperson and to the ad hoc Chairperson referred to in paragraph 4 of the present article.

(2) The Chairperson shall preside over the meetings of the Council. At any time during the discussion, Members may raise objections to the Chairperson's conduct of business. If the Chairperson does not uphold the objection, any Member may call for an immediate decision by the Council.

(3) If the office of Chairperson or Deputy Chairperson of the Council falls vacant, the Council shall at its next meeting elect a new Chairperson or Deputy Chairperson, in accordance with Article 27 of the European Patent Convention.

(4) In the event of neither the Chairperson nor the Deputy Chairperson being able to attend a meeting of the Council, the meeting shall be opened by the longest serving Member, who shall immediately invite the Council to elect an ad hoc Chairperson. The ad hoc Chairperson shall then preside over the meeting while the Chairperson and Deputy Chairperson are absent.

Article 5[1]
Board

(1) A Board may be set up in accordance with Article 28 of the European Patent Convention.

(2) Without prejudice to the responsibilities of the Budget and Finance Committee, the duties of the Board shall be to assist the Chairperson in preparing the work of the Council.

(3) Further details of the Board's function and working arrangements shall be

1 See Part III 18a

laid down by the Council in its decision setting up the Board and in related subsequent decisions. This/these may in particular include further duties entrusted by the Council to the Board.

Article 6
Council Secretariat

(1) Pursuant to Article 32 of the European Patent Convention, the President of the European Patent Office shall place a secretariat (hereinafter referred to as the "Council Secretariat") at the disposal of the Council.

(2) The Council Secretariat shall draft the Minutes (Article 12), be responsible for all organisational aspects of the proceedings of the Council and advise the Chairperson on organisational matters.

Article 7
Other participants

President of the European Patent Office

(1) The President of the European Patent Office shall take part in all the deliberations of the Council (Article 29, paragraph 2, of the European Patent Convention). Unless the Council decides otherwise in a particular case, he/she may be assisted by other employees of the European Patent Office.

President of the Boards of Appeal

(2)[1] The President of the Boards of Appeal shall take part in the deliberations of the Council relating to the Boards of Appeal Unit and may take part in other deliberations of the Council that do not relate to confidential items. Unless the Council decides otherwise in a particular case, the President of the Boards of Appeal may be assisted by other employees of the Boards of Appeal Unit.

Observers

(3) Unless the Council decides otherwise in a particular case, observers (Article 30 of the European Patent Convention) may take part in those deliberations of the Council which do not relate to confidential agenda items (Article 9, paragraph 3).

Board of Auditors

(4) The Board of Auditors may take part in all the deliberations of the Council (Article 77, paragraph 4, of the Financial Regulations of the European Patent Organisation).

Staff representatives

(5.1) Unless the Council decides otherwise in a particular case, and subject to sub-paragraph (2), up to four staff representatives may take part in those

1 Inserted by decision of the Administrative Council CA/D 6/23.

deliberations of the Council which do not relate to confidential agenda items (Article 9, paragraph 3).

(5.2) Administrative approval for their participation shall be at the discretion of the President of the European Patent Office.

Attendance of other participants

(6)[1] In the case of a meeting with physical presence (Article 8, paragraph 2), when other participants within the meaning of this Article are prevented from physical attendance, they may choose to attend remotely through electronic means. The Council Secretariat (Article 6) shall be informed thereof in advance and in writing.

Part 2: Procedure

Article 8[2]
Convocation

(1) The Council shall define its work programme and schedule its ordinary meetings for each calendar year in advance.

(2) Under normal circumstances, Council meetings shall be held with attendance through physical presence. In specific situations, especially where the circumstances hinder the proper organisation of a meeting with physical presence, a meeting can be held with attendance ensured remotely through electronic means (the latter hereinafter referred to as an "e-Council meeting"). An e-Council meeting may also be scheduled in view of the planned short duration of the meeting and the agenda items expected to be discussed.

(3) The Chairperson shall give notice of convocation of the Council at least fourteen calendar days before the beginning of the meeting. The notice shall indicate the format of the meeting. Where extraordinary circumstances require, the Chairperson may decide to transform a meeting scheduled with physical attendance into an eCouncil meeting. Notice of such change shall be given without delay and, where possible, no later than eight calendar days before the beginning of the meeting.

(4) Meetings of the Council shall normally be held at the European Patent Office in Munich. An e-Council meeting shall be deemed to be held at the European Patent Office in Munich unless otherwise indicated in the notice of convocation.

1 Inserted by decision of the Administrative Council CA/D 6/21.
2 Revised by decision of the Administrative Council CA/D 5/20.

Article 9
Agenda

I. Provisional agenda

(1) The Chairperson shall draw up the provisional agenda for each meeting and indicate the provisional order in which the agenda items are to be discussed. This information shall be circulated at least fourteen calendar days before the beginning of the meeting.

(2) Requests for inclusion of items/submission of documents

(2.1) Subject to the limitations set out in this paragraph, the Chairperson shall include in the provisional agenda the items in respect of which a request for inclusion has been received at least sixteen calendar days before the beginning of the meeting from a Member, from the Chairperson of any Committee, Working Party or other subsidiary body established by the Council, from the Board of Auditors (Article 7, paragraph 3), from the Council Secretariat or from the President of the European Patent Office, and for which the necessary documents have been submitted. The Council Secretariat may only request to put items on the provisional agenda and submit documents when these relate to its responsibilities as set out in Article 6, paragraph 2.

(2.2) Requests to have items put on the provisional agenda and documents from:

(a) states with right of accession (Article 3) and observers (Article 7, paragraph 2) shall be submitted via the Chairperson or the President of the European Patent Office.
(b) the staff representatives (Article 7, paragraph 4) shall be submitted via the President of the European Patent Office.

(2.3) Requests to have items put on the provisional agenda and documents received:

(a) up to eight calendar days before the meeting begins shall be transmitted to Members and other participants without delay.
(b) after that date shall also be transmitted, but such items and documents shall be put on the provisional agenda for the following Council meeting or dealt with by written procedure (Article 10, paragraphs 4 to 9) unless the Council proceeds under paragraph 9 of the present article.

(3)[1] The Chairperson shall allocate each item on the provisional agenda to Category A, B or C. Unless the Chairperson decides otherwise, category A shall be for items which the Budget and Finance Committee or another subsidiary body directly preparing the Council decision has already approved by a three quarters' majority and which the Council can adopt without discussion. Category A shall also comprise all items for which the supporting documents are submitted, within the applicable deadlines under Article 9(2.1), for information only. Category B shall be for items requiring discussion by the Council.

1 Revised by decision of the Administrative Council CA/162/10 Rev. 1.

Category C shall be for confidential items which the Council discusses and adopts in closed session comprising the Members, the President and the assisting employees of the European Patent Office (Article 7, paragraph 1), and the Board of Auditors (Article 7, paragraph 3).

The Chairperson may change the category of individual items on the provisional agenda at any time prior to the beginning of the meeting.

(4) Each item on the provisional agenda shall also be accompanied by one of the abbreviations below to indicate the purpose for which a document is being submitted:

inf = for information

opn = for opinion

dec = for decision

II. Final agenda

(5) At the beginning of each meeting, the Chairperson shall, where necessary, supply Members with a list of requests and documents received up to eight calendar days before the start of the meeting. Inclusion of such requests and documents in the final agenda shall be subject to the approval of the Council by a three-quarters' majority.

(6) Any Member or the President of the European Patent Office may request that an item be transferred from Category A to Category B.

(7) The Council shall adopt the agenda and the order in which the agenda items are to be discussed at the beginning of each meeting.

(8) After decisions on A items not requiring discussion have been taken, Members, representatives of observers (Article 30 of the European Patent Convention), the Board of Auditors, the chairpersons of subsidiary bodies, and the President of the European Patent Office may make a statement for inclusion in the minutes.

(9) With the unanimous agreement of the Council, at any time prior to the end of the meeting

(a) questions and documents that are urgent or in the special interest of the Organisation may be added to the agenda

and

(b) items on the agenda may be deleted, carried over to a subsequent meeting, amended or reassigned to a different category (paragraph (3) of the present article) or position in the order for discussion.

Article 10[1]
Voting

I. Voting at meetings

(1) The presence of the representatives of the majority of the Contracting States shall be required for a vote on any decision to be taken (quorum). In the absence of such a quorum the vote shall be postponed.

(2) Subject to Article 35, paragraphs 2 and 3, of the European Patent Convention and divergent provisions in these Rules of Procedure, the Council shall take its decisions by a simple majority of the Contracting States represented and voting.

(3) Voting shall be by a show of hands, unless any Member requests either a secret ballot or a roll call before voting has commenced. Votes may be cast electronically.

(4) Immediately after a first vote by a show of hands, the result of which shall be ascertained and made known by the Chairperson, any Member may demand a second vote by roll call, which shall then replace the first.

(5) In the event of a vote by roll call, the Chairperson shall call the roll of the delegations in the alphabetical order of the names of the Contracting States in their respective languages, beginning with the delegation of the Contracting State whose name was drawn by lot.

(6) Votes on elections and re-elections and on appointments, reappointments and extensions of terms of office shall be taken by secret ballot.

(7) In exceptional circumstances, where a Member is unable to attend a meeting either in person or remotely through electronic means and where no representation by another member of their delegation is possible, they may choose to be represented by a Member of another delegation in voting proceedings at that meeting. In addition to their own vote, a Member may cast the vote of only one other Member. Any such representation shall be communicated to the Council Secretariat in writing, and the Chairperson shall ensure that the Council is duly informed thereof.

II. Written procedure

(8) By derogation from paragraphs 1 to 7, on a proposal from either the Chairperson or the President of the European Patent Office the Council may take a vote by written procedure in accordance with the following provisions.

(9) If a vote is to be taken by written procedure, the Chairperson shall communicate the wording of the proposal at issue to all Members and to the President of the European Patent Office. At the same time the Chairperson shall invite Members to inform him/her, within fourteen calendar days,

1 Amended by decisions of the Administrative Council CA/D 6/23 and CA/D 7/24.

(a) whether they agree to use the written procedure

and

(b) whether they approve the proposal.

(10) A proposal submitted for voting by written procedure may not be amended; it shall be approved or rejected in its entirety.

(11) The proposal shall be deemed to be adopted if

(a) three quarters of the Contracting States have agreed to the use of the written procedure

and

(b) the Contracting States have approved the Chairperson's proposal by whichever majority is required under Articles 34 to 36 of the European Patent Convention.

(12) If a proposal submitted for voting by written procedure fails to achieve the majorities required in accordance with the above provisions, it shall be included in the provisional agenda of the Council's next meeting.

(13) The Chairperson shall maintain a list of decisions taken by written procedure. At the beginning of each meeting of the Council, the Chairperson shall inform the participants of any decisions taken by written procedure since its last meeting.

Article 10a[1]
Code of Conduct

Members, advisers and experts (Article 2(2)) shall act in accordance with a Code of Conduct on the prevention and management of conflicts of interest. The Code of Conduct shall be established by a decision of the Council.

Article 11
Interpreting

Interpreting from each of the languages English, French and German into each of the other two languages shall be provided throughout each meeting of the Council, unless the Council unanimously decides to dispense therewith.

Article 12
Minutes

(1) A summary of the decisions taken at each meeting of the Council shall be forwarded to Members no later than fourteen calendar days after the end of the meeting.

(2) The draft minutes shall be approved at the following meeting of the Council, and the original copy of the minutes, as approved, shall be signed by the

1 Inserted by decision of the Administrative Council CA/D 2/24.

Chairperson. The signed copy of the minutes shall be kept in the archives of the Council Secretariat.

(3) The final text of the minutes shall be forwarded to Members no later than 30 calendar days after its approval.

Article 12a[1]
Documents

(1)[2] Each document submitted to the Council shall be allocated to one of the categories designated in the policy for the publication of Council documents. The policy shall be established by a decision of the Council.

(2)[3] Council documents may be made accessible to third parties on request in accordance with the rules set out in the policy for access to Council documents. The policy shall be established by a decision of the Council.

Article 13[4]
Confidentiality

(1) All persons taking part in meetings and receiving documents shall preserve the confidentiality of proceedings and votes relating to Category C items (Article 9, paragraph 3), of associated documents and of other documents marked confidential, regardless of the manner of their transmission.

(2) Persons taking part in meetings shall, as such, have no right to inspect the files of, or to request any information concerning, European patent applications or patents, except insofar as they are available to the public.

Article 14[5]
Committees, working parties and other subsidiary bodies

(1) The Council may establish committees, working parties or other subsidiary bodies to advise it on particular questions.

(2) Unless provided otherwise in this article, each subsidiary body shall establish its own procedure on a proposal from its chairperson.

(3) The President of the European Patent Office shall have the right to attend, or be represented at, any meeting of a subsidiary body.

(4) Documents submitted to a subsidiary body and reports on its deliberations shall be drawn up in English, French and German.

(5) Article 1, paragraph 4, Articles 2 and 4, paragraph 4, and Articles 6, 7, 8, 10, 10a, 11, 12a, 13, 15a, 16 and 17 shall apply, where possible, to subsidiary bodies mutatis mutandis.

1 Inserted by decision of the Administrative Council CA/D 8/23.
2 See policy for the publication of Council documents adopted by decision CA/D 9/23.
3 See policy for access to Council documents adopted by decision CA/D 10/23.
4 Amended by decision of the Administrative Council CA/D 8/23.
5 Amended by decisions of the Administrative Council CA/D 8/23 and CA/D 2/24.

Article 15
Specific tasks

The Council may request one or more of its Members or other delegation members (Article 2, paragraph 2) to undertake specific tasks and to make a report to the Council.

Article 15a[1]
Data Protection Rules of the Council

The Council shall process personal data in accordance with its Data Protection Rules. These rules shall be established by a decision of the Council.

Part 3: Final provisions

Article 16[2]
Travel expenses

(1) The travel expenses incurred by two delegation members per Contracting State in travelling to and from Council functions or in undertaking specific tasks within the meaning of Article 15 shall be reimbursed by the European Patent Organisation at the same level as that payable to permanent employees of the European Patent Office.

(2) Their subsistence expenses shall likewise be reimbursed, in the form of a daily allowance at the same level as that payable to permanent employees of the European Patent Office. The allowance shall be calculated at a flat daily rate.

(3) In addition, the Chairperson shall be reimbursed at the same level for such travel and accommodation expenses as he/she incurs in the performance of his/her duties.

Article 17
Communications

(1) All correspondence with the Council shall be addressed to the Council Secretariat.

(2) In the interests of rapid and efficient correspondence among Members and other participants, the Council shall whenever possible make use of generally available electronic communications facilities, especially electronic mail (e-mail) and the databases of the European Patent Office. The Council Secretariat shall maintain a list of all e-mail addresses and databases relevant to the work of the Council, and shall provide such information to Members and other participants.

(3) Where notices of convocation, notifications, documents and other

1 Inserted by decision of the Administrative Council CA/D 2/23 Corr. 1. See part III 18b.
2 Amended by decision of the Administrative Council CA/D 21/09.

communications subject to deadlines have to be transmitted, the relevant deadline shall be deemed to be met if within the time limit any of the above is transmitted by e-mail or made available on one of the databases of the European Patent Office.

(4) The Council Secretariat shall notify all Members by e-mail when such documents have been made available on one of the databases of the European Patent Office.

(5) The Council Secretariat shall be responsible for ensuring access to such databases for delegations and subsidiary bodies of the Council.

(6) Members, or members of their delegations, shall inform the Council Secretariat by e-mail of all documents not received relating to notified meetings, within three calendar days after the relevant deadline has expired.

Article 18[1]
Specific provisions concerning the settlement of disputes relating to Council decisions [Title VIII (Settlement of disputes) of the Service Regulations for permanent and other employees of the European Patent Office]

(1) Opinions on requests for review of individual decisions taken by the Council as the competent appointing authority shall be submitted by

(a) the President of the European Patent Office, or

(b) the President of the Boards of Appeal regarding requests for review of decisions taken by the Council upon their proposal or having consulted them.

(2) The Council Secretariat shall inform the person concerned of the date of the Council meeting in which a decision on the outcome of the review is scheduled to be taken.

(3) Taking into account the opinion referred to in paragraph 1, the Council shall take a reasoned decision on the outcome of the review in accordance with Article 109 of the Service Regulations for permanent and other employees of the European Patent Office (hereinafter referred to as "the Service Regulations"). Such a decision may be challenged through an internal appeal under the conditions laid down in Article 110 of the Service Regulations.

(4) If, however, a request for review is submitted to the Council although it is not the competent appointing authority to deal with it, this request shall be referred to the competent appointing authority, namely the President of the Office, by decision of the Chairperson. The Council shall be regularly informed by the Chairperson of the number of requests referred and the reasons for these referrals in a written report.

1 Article 18 of the Rules of Procedure as amended by decision of the Administrative Council CA/D 18/23 shall apply to requests for review submitted on or after 1 January 2024.

(5) The Office shall represent the Council in proceedings before the Appeals Committee unless the Council decides otherwise in a particular case based on a proposal from the Chairperson. The Council shall then decide whom it is to be represented by and inform the President of the European Patent Office accordingly. Regarding decisions taken on opinions referred to in paragraph 1(b), the President of the Boards of Appeal shall be consulted on the representation of the Council and all ensuing steps to be taken in the proceedings before the Appeals Committee on the Council's behalf.

(6) The President of the European Patent Office shall represent the European Patent Organisation (Article 5, paragraph 3, of the European Patent Convention) in any proceedings before the Administrative Tribunal of the International Labour Organization in relation to final decisions taken by the Council and shall inform the Council of any judgment delivered in such proceedings. Regarding decisions taken on opinions referred to in paragraph 1(b), the President of the Boards of Appeal shall be consulted on all steps to be taken in such proceedings on the Organisation's behalf.

(7) Correspondence for the Council for the purposes of this Article shall be addressed to the Council Secretariat pursuant to Article 17(1) for submission to the Council by the Chairperson in accordance with Article 9, paragraph 2, where a decision is needed. Access to this correspondence held by the Council Secretariat, as well as to written submissions to the Administrative Tribunal of the International Labour Organization, shall be arranged for Council members at their request at every stage of the settlement of disputes. The Chairperson shall report regularly to the Council on pending disputes relating to its decisions and their resolution.

(8) Correspondence for the Appeals Committee shall be addressed directly to the Appeals Committee.

Article 19
Entry into force

These Rules shall enter into force on 1 January 2007.

Done at Munich, 7 December 2006

Board of the Administrative Council

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DECISION OF THE ADMINISTRATIVE COUNCIL OF 5 JUNE 2003 SETTING UP A BOARD OF THE ADMINISTRATIVE COUNCIL

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to Article 28 of the European Patent Convention, and to Article 5 of the Rules of Procedure of the Administrative Council,

HAS DECIDED AS FOLLOWS:[1]

Article 1

(1) A Board of the Administrative Council shall be set up.

(2)[2,3] The Board shall comprise the Chairman, Deputy Chairman and three further members of the Administrative Council. It shall assist the Chairman in preparing the Administrative Council's work. At the invitation of the Chairman, the chairmen of the Budget and Finance Committee, the Committee on Patent Law and the Technical and Operational Support Committee shall be regularly involved in the Board's discussions.

(3) The President of the European Patent Office shall take part in the Board's discussions.

(4)[4] The President of the Boards of Appeal shall take part in the Board's discussions relating to the Boards of Appeal Unit.

Article 2

This decision shall enter into force on 1 July 2003.

Done at Munich, 5 June 2003

For the Administrative Council

The Chairman

Roland GROSSENBACHER

1 Decision of the Administrative Council CA/D 4/03.

2 At its 118th meeting, the Administrative Council decided that "the chairman of the Technical and Operational Support Committee (TOSC) should be added to the list of those regularly involved in the Board's discussions at the invitation of its chairman", see CA/111/09, agenda item 2.1.

3 At its 143rd meeting, the Administrative Council took note of the Chairperson's intention to invite the Chairperson of the Select Committee to regularly attend the meetings of its Board, see CA/28/15, point 27.

4 Amended by decision of the Administrative Council CA/D 6/23.

DECISION OF THE ADMINISTRATIVE COUNCIL OF 30 OCTOBER 2003 CONCERNING THE OPERATION OF THE BOARD OF THE ADMINISTRATIVE COUNCIL

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to Article 28 of the European Patent Convention,

Having regard to Article 5 of the Rules of Procedure of the Administrative Council (CA/D 2/02),

Having regard to the decision of the Administrative Council dated 5 June 2003 setting up a Board of the Administrative Council (CA/D 4/03),

HAS DECIDED AS FOLLOWS:[1]

Article 1

Details of the Board's function are hereby laid down as follows:

The Board shall assist the Chairman of the Administrative Council in preparing and ensuring the continuity of the work of the Council, and in particular in:

- preparing the Council's work programme
- general co-ordination of the work of the Council and its bodies, on the basis of the work programme
- facilitating cohesion and consensus within the European Patent Organisation.

The Chairman shall report regularly to the Council on the Board's activities.

Article 2

Details of the Board's working arrangements are hereby laid down as follows:

The Board shall meet on the initiative of the Council Chairman or of at least two of its members. The Council Chairman shall decide the frequency and venues of the meetings in the light of the tasks in hand and the aim of ensuring the continuity of the work of the Council and its bodies.

The Board may request or produce such documents as it considers useful for its work.

In the interests of efficiency, the Board may dispense with simultaneous interpreting and the translation of documents, using the Organisation's three official languages in parallel in its work.

The Board shall be assisted by the Council secretary and secretariat.

1 Decision of the Administrative Council CA/D 10/03.

Article 3

This decision shall enter into force on 30 October 2003.

Done at Munich, 30 October 2003

For the Administrative Council

The Deputy Chairman
Mogens KRING

Data Protection Rules of the Administrative Council

Data Protection Rules of the Administrative Council[1]

Article 1
Scope

(1) These Rules govern the protection of personal data processed by the Administrative Council and its subsidiary bodies,[2] in particular in the context of:

- appointments to and elections by the Administrative Council, its committees, working parties and subsidiary bodies;
- appointments of members of other bodies, such as members of the Board of Auditors and members, including the chairpersons, of the Disciplinary Committee and the Appeals Committee, which are made under the responsibility of the Administrative Council in accordance with the rules applicable to those bodies;
- appointments of employees for whom the Administrative Council is the appointing authority, such as the President and vice-presidents of the European Patent Office, the President of the Boards of Appeal, members, including the chairpersons, of the Boards of Appeal and of the Enlarged Board of Appeal and the Administrator of the Reserve Funds for Pensions and Social Security;
- the settlement of disputes relating to decisions taken by the Administrative Council on requests addressed to it as appointing authority under the Service Regulations for permanent and other employees of the European Patent Office ("Service Regulations");
- the archiving of documents and the maintenance of contact details by the Council Secretariat;
- the organisation of meetings of the Administrative Council, its committees, working parties and subsidiary bodies.

(2) The application of these Rules is without prejudice to the provisions of the European Patent Convention, including its Implementing Regulations and any other provisions complementing it, such as the Protocol on Privileges and Immunities of the European Patent Organisation.

(3) In the absence of specific provisions in these Rules, the Data Protection Rules of the European Patent Office ("EPO DPR") shall apply to the processing of personal data by the Administrative Council and its subsidiary bodies, in accordance with paragraphs 4 to 10 below.

(4) For the purposes of applying the EPO DPR to the processing of personal data by the Administrative Council, references to the "European Patent Office" or "Office" shall be interpreted as references to the "Administrative

1 Adopted by decision of the Administrative Council CA/D 2/23 Corr. 1.
2 This provision is without prejudice to any data protection rules adopted by the Select Committee of the Administrative Council in accordance with its own Rules of Procedure (SC/D 1/13).

Council" and references to the "President of the Office" shall be interpreted as references to the "Chairperson of the Administrative Council" unless otherwise specified in paragraph 7.

(5) The definitions in Article 3 EPO DPR shall apply, except for those below, which shall be interpreted as follows:

- Article 3(1)(g) EPO DPR: "controller" means the entity, namely the Administrative Council of the European Patent Organisation, which, alone or jointly with others, determines the purposes and means of the processing of personal data.
- Article 3(1)(h) EPO DPR: "delegated controller" means the body or unit of the Administrative Council or of the European Patent Office, such as the Council Secretariat (managed by its head), responsible for ensuring that all processing operations involving personal data that are performed within that body or unit comply with these Rules.
- Article 3(1)(i) EPO DPR: "operational unit" means an organisational unit of the Administrative Council or the European Patent Office performing tasks and/or activities within or on behalf of the Administrative Council and defining the purpose, rationale and business needs of a processing operation.

(6) Article 1(2)(a), (b) and (c) EPO DPR shall be interpreted to the effect that, where appropriate, these Rules may be supplemented by further rules, administrative instructions and decisions adopted by the President of the Office or, where applicable, the President of the Boards of Appeal and by operational documents specifying more detailed requirements and procedures for the processing of personal data which are issued for the European Patent Office by the Data Protection Officer.

(7) The references to the "President of the Office" or the "Office" in Articles 3(1), 9(3), 10(6), 25(3), 30(7), 43(7) and 48(6) EPO DPR shall remain applicable. References in the EPO DPR to "contractual clauses", "provisions" and "decisions" shall be interpreted as applicable to the Administrative Council and its subsidiary bodies where so decided by the Administrative Council.

(8) Article 10(1)(g) and (5) EPO DPR shall not apply. Article 10(2) EPO DPR shall not apply in so far as it refers to "a register". Article 10(4) EPO DPR shall be interpreted as follows: "What constitutes a task carried out in the exercise of the official activities of the Administrative Council or in the legitimate exercise of the official authority vested in the controller is to be established on the basis of the European Patent Convention and/or other applicable legal provisions of the European Patent Organisation".

(9) Article 50(5) EPO DPR shall be interpreted as follows: "When the Administrative Council acts as the controller, the Chairperson shall inform the President of the Office and, where applicable, the President of the Boards of Appeal of the Council's final decision."

(10) The EPO DPR shall not be interpreted in a manner that would unduly impede the Administrative Council's exercise of its functions under the European Patent Convention.

Article 2
Controller and delegated controller

The purposes and means of any processing of personal data under these Rules shall be determined by the Administrative Council as the controller, either alone or jointly with others. The Council Secretariat as a delegated controller shall ensure that all operations involving personal data processed by or on behalf of the Administrative Council and its subsidiary bodies comply with these Rules.

Article 3
Principles

(1) Any processing of personal data under these Rules shall comply with the principles set out in paragraph 2. The controller is responsible for, and shall be able to demonstrate, such compliance ("accountability").

(2) Personal data processed by or on behalf of the Administrative Council shall be:

a) processed lawfully, fairly and in a manner transparent to the data subject;
b) collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with these purposes;
c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
d) accurate and, where necessary, kept up to date;
e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data were collected or for which they are further processed;
f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Article 4
Lawfulness

Processing of personal data is lawful only if and to the extent that:

a) it is necessary for the performance of a task concerning the Administrative Council's exercise of its official functions or any other activity mandated under the European Patent Convention;

b) it is necessary to ensure compliance with a legal obligation to which the Administrative Council or any person processing data on its behalf is subject;

c) it is necessary for the performance or conclusion of a contract to which the data subject is a party;

d) the data subject has given explicit consent to the processing of his or her personal data for one or more specific purposes; or

e) it is necessary in order to protect the vital interests of the data subject or of another natural person.

Article 5
Sensitive personal data

Any personal data falling within the meaning of "special categories of personal data" or "personal data relating to criminal convictions and offences" as defined in the EPO DPR shall be processed in accordance with the relevant provisions therein.

Article 6
Rights of the data subject

Any individual whose personal data are or have been processed by or on behalf of the Administrative Council shall enjoy equivalent rights to those granted to data subjects under the EPO DPR.

Article 7
Transmission and transfer of personal data

(1) A transmission of personal data from the Administrative Council to the European Patent Office or to a public authority of a contracting state shall be lawful if it is necessary to fulfil the tasks assigned to the Administrative Council under the European Patent Convention and its Implementing Regulations or to comply with a legal obligation.

(2) Any transfer of personal data shall comply with the provisions on such transfers in the EPO DPR and the related implementing rules.

Article 8
Personal data breach

(1) The Data Protection Officer shall be notified by the controller or the delegated controller of any personal data breach without undue delay and, where feasible, no later than 72 hours after the controller has become aware of it, unless it is unlikely to result in a risk to the rights and freedoms of natural persons.

(2) The notification referred to in paragraph 1 shall comply with the requirements laid down in the provisions of the EPO DPR on the notification and communication of a personal data breach.

(3) When the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, the personal data breach shall be communicated to the data subject concerned without delay.

(4) The conditions under which no communication of a data breach to the data subject is required shall be those set forth in the EPO DPR.

Article 9
Data Protection Officer

The Data Protection Officer appointed under the EPO DPR shall be the Data Protection Officer for the Administrative Council and its subsidiary bodies.

Article 10
Data Protection Board

(1) The Data Protection Board established under the EPO DPR shall be the Data Protection Board for the Administrative Council and its subsidiary bodies.

(2) The Rules of Procedure of the Data Protection Board (DPB RoP) shall apply, with the following exceptions:

(a) The definitions referred to in Article 1(6) DPB RoP shall remain applicable, except for those in Article 3(1)(g), (h) and (i) EPO DPR, which shall be interpreted in accordance with Article 1(5) of these Rules.
(b) Any decision on costs issued by the President in the exercise of his or her power under Article 3(6) DPB RoP shall be taken in consultation with the Chairperson of the Administrative Council.
(c) The Secretariat of the Data Protection Board shall address the reasoned opinion of the Data Protection Board which it is required to communicate at the end of a review under Article 10(5) DPB RoP to the Chairperson of the Administrative Council.

Article 11
Oversight and legal redress

(1) Data subjects who consider that the processing of their personal data by the Administrative Council infringes their rights under these Rules may request the relevant delegated controller for the Administrative Council to review the matter and take a decision. Such a decision shall be prepared by the European Patent Office.

(2) Data subjects may challenge the decision taken under paragraph 1 by filing a complaint with the Data Protection Board referred to in Article 10(1) within three months of receipt of the decision.

(3) When examining an objection filed by a data subject, the Data Protection Board shall invite the data subject and the European Patent Office, acting on behalf of the Administrative Council, to set out in writing their position on the claims and facts at issue and to provide evidence or comments and arguments on evidence already at hand. After examining the objection, the evidence and any written input submitted, the Data Protection Board shall issue a reasoned opinion to the Chairperson of the Administrative Council.

(4) When taking the final decision, the Chairperson of the Administrative Council shall normally follow the Data Protection Board's opinion. If the opinion is not followed, the reasons for deviating from it shall be set out in writing.

(5) Data subjects covered by Article 1 of the Service Regulations may challenge the decision of the Chairperson of the Administrative Council only before the Administrative Tribunal of the International Labour Organization under Article 113 of the Service Regulations. Data subjects not covered by Article 1 of the Service Regulations who disagree with the decision taken by the Chairperson of the Administrative Council may ask the Administrative Council, within three months of receipt of the final decision under paragraph 4, for ad-hoc arbitration proceedings to resolve the dispute. The provisions in the EPO DPR on such ad-hoc arbitration proceedings shall apply accordingly.

(6) The Chairperson of the Administrative Council, assisted by the Data Protection Office and the Council Secretariat, shall draw up and submit to the Administrative Council an annual report on his or her performance of tasks under these Rules.

Article 12
Transitional provisions

(1) The data collected up to the entry into force of these Rules will be deemed to have been lawfully collected within the meaning of Article 3.

(2) Processing operations initiated after the adoption of these Rules shall comply with the requirements laid down in these Rules.

(3) Processing operations which are already ongoing on the date of the adoption of these Rules shall be brought into line with the requirements laid down in these Rules within six months of the entry into force of these Rules. In exceptional cases, for which due justification shall be presented, the Data Protection Officer may allow this time limit to be extended.

(4) Specific provisions on the restriction of rights under Article 25 EPO DPR may be adopted by the Administrative Council in consultation with the Data Protection Officer.

(5) All rules, administrative instructions, decisions and operational documents within the meaning of Article 1(6) already adopted or issued for the European Patent Office prior to the adoption of these Rules shall apply mutatis mutandis to processing operations for which the Administrative Council is the controller until superseded by specific instruments adopted by the Administrative Council or issued by the Data Protection Officer of the Council (Article 9).

Council documents

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DECISION OF THE ADMINISTRATIVE COUNCIL OF 13 DECEMBER 2023 ESTABLISHING A POLICY FOR THE PUBLICATION OF COUNCIL DOCUMENTS

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33(2)(e) thereof,

HAS DECIDED AS FOLLOWS:[1]

Article 1

Each document submitted to the Administrative Council shall be allocated to one of the following categories:

a) Public documents: documents classified as "public" can be accessed in the Organisation's database of Council documents ("MICADO") by Council meeting participants and European Patent Office staff. They are also made available to the public via the Organisation's website after the meeting to which they were submitted.

b) Restricted documents: documents classified as "restricted" are disseminated only to Council meeting participants. They are not made available to the public. Restricted documents can, however, be accessed on MICADO by Council meeting participants and European Patent Office staff.

c) Confidential documents: documents classified as "confidential" are disseminated only to the participants in the relevant closed session and made accessible only in the Organisation's database of confidential Council documents (MICADO-C). Confidential documents are not made available to the public.

Article 2

(1) The policy set out in this decision replaces the recommendations given in CA/26/12 Rev. 1 ("Publication of Administrative Council's documents through the EPO's public web site").

(2) This decision enters into force on 13 December 2023.

Done at Munich, 13 December 2023

For the Administrative Council

The Chairperson
Josef KRATOCHVÍL

1 Decision of the Administrative Council CA/D 9/23..

DECISION OF THE ADMINISTRATIVE COUNCIL OF 13 DECEMBER 2023 ESTABLISHING A POLICY FOR ACCESS TO COUNCIL DOCUMENTS

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33(2)(e) thereof,

HAS DECIDED AS FOLLOWS:[1]

Article 1

In accordance with its administrative autonomy under Article 4 of the European Patent Convention ("EPC"), the European Patent Organisation shall assess, in accordance with its legal and policy framework, a request by a third party for access to documents submitted to the Administrative Council. Any such assessment shall be without prejudice to provisions under domestic law governing the disclosure of documents.

Article 2

In accordance with the policy for the publication of Council documents, access to Council documents shall be granted to third parties, on request and without prejudice to the provisions of the Data Protection Rules of the Administrative Council (CA/D 2/23), in line with the category to which the document has been allocated:

(a) Public documents are published on the Organisation's website and are freely accessible.

(b) Restricted documents are disseminated only to Council meeting participants and are not made available to the public or disclosed to third parties. Exceptionally, however, such a document may be disclosed if, in the Council's assessment, the disclosure of the document would not seriously undermine the Organisation's decision-making process or the international relations between any of the Contracting States and the Organisation, or between the Contracting States.

(c) Confidential documents are not made available to third parties. Exceptionally, however, such a document may be disclosed if, in the Council's assessment, a requester has successfully demonstrated that the document sought is patently relevant to their case in the context of litigation proceedings and that no higher interest stands in the way of its disclosure.

1 Decision of the Administrative Council CA/D 10/23.

Article 3

(1) Where a third party submits a request for access to a Council document directly to the Organisation, the Council Secretariat shall process the request in accordance with Article 2.

(2) If the request relates to a public document of the Council, the Council Secretariat shall, in accordance with Article 2(a), refer the third party to the Organisation's website.

(3) If the request relates to a restricted or confidential document, the Council Secretariat shall assist the Chairperson of the Council in drawing up a proposal on how to handle the request. Based on the Chairperson's proposal, the Council shall, in accordance with Article 2(b) and (c), decide to grant access to the Council document or reject the request.

(4) Once a decision has been taken, the Council Secretariat shall inform the third party accordingly.

Article 4

(1) Where a request for access to a Council document is received by a delegation of a Contracting State, and without prejudice to the fact that the treatment of such requests is to be determined according to the rules applicable under respective domestic law, the following shall apply:

(a) Third parties requesting access to public documents of the Council may be referred to the Organisation's website.

(b) Upon receipt of a request for access to a restricted or confidential document, the delegation should contact the Council Secretariat for the Council's guidance. The Council Secretariat shall assist the Chairperson of the Council in drawing up a proposal on how to handle the request. Based on the Chairperson's proposal, the Council shall, in accordance with Article 2(b) and (c), provide its guidance as to how to respond.

(c) Once the Council has provided its guidance, the Council Secretariat shall inform the delegation accordingly. The delegation or the initial recipient of the request may then further process the request in accordance with their domestic law.

(2) If the recipient of a request for access to a Council document is a public authority in a Contracting State, the receipt of the request should be communicated to the Council Secretariat through the delegation of that Contracting State.

(3) The practices outlined in this Article shall apply, mutatis mutandis, to States with right of accession (Article 166 EPC) as well as observers (Article 30 EPC) in respect of documents to which they have been granted access through their participation in Council meetings.

Article 5

(1) If a request under Article 3 relates to a non-confidential document which was submitted to the Council before this policy entered into force and has remained unpublished, the Council Secretariat shall ask the Council to decide whether or not it shall be disclosed to the requester and shall inform the requester accordingly.

(2) If a request under Article 4 relates to a non-confidential document which was submitted to the Council before this policy entered into force and has remained unpublished, the Council Secretariat shall ask the Council to provide guidance as to whether or not it should be disclosed to the requester and shall inform the delegation accordingly.

Article 6

This decision enters into force on 13 December 2023.

Done at Munich, 13 December 2023

For the Administrative Council

The Chairperson
Josef KRATOCHVÍL

Code of Conduct

on the prevention and management of conflicts of interest for the Administrative Council of the European Patent Organisation

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33(2)(e) thereof,

Having regard to the Rules of Procedure of the Administrative Council, and in particular Article 10a thereof,

Whereas this Code of Conduct should facilitate the prevention and management of conflicts of interest, or potential conflicts of interest, to be observed by the Members of the Council, as well as experts and advisers who may assist the Members, so as to avoid any conflict between the European Patent Organisation's public duties and the personal interests of the Members and advisers or experts,

Whereas this Code of Conduct recognises that the unique expertise of the Members of the Council as well as their experts and advisers is based on prior professional experience, and that having an interest does not in and of itself constitute a conflict of interest,

Whereas this Code of Conduct acknowledges that the exchange of views relating to public interests in the Council helps the European Patent Organisation to create public value in the remit of its mission,

Whereas this Code of Conduct recognises that a declaration in good faith of any conflict of interest is the individual responsibility of the Members of the Council as well as their experts and advisers,

Whereas this Code of Conduct does not seek to be a tool to ban or sanction the holding of interests by Members of the Council or their experts and advisers, but rather to facilitate, in a transparent and consistent manner, the resolution of situations where potential conflicts may arise, thus ensuring the highest standards of public administration, professional ethics, and integrity,

HAS DECIDED AS FOLLOWS:[1]

Article 1
Purpose and scope

(1) The purpose of this Code of Conduct is to avoid conflicts between the duties of representatives and alternative representatives appointed by each Contracting State ("Members") and their personal interests.

(2) The provisions of this Code of Conduct apply, mutatis mutandis, to the advisers or experts assisting Members within the meaning of Article 26(2) EPC and whose names have been communicated to the Council Secretariat in writing in accordance with Article 2(1) of the Rules of Procedure of the Administrative Council.

1 Decision of the Administrative Council CA/D 3/24.

(3) The Code of Conduct applies without prejudice to national legislation in the Contracting States in the field of prevention of conflicts of interests which is applicable to Members.

(4) In accordance with Article 14(5) of the Rules of Procedure of the Administrative Council the Code of Conduct shall apply, where possible, to the Council's subsidiary bodies mutatis mutandis. The Boards of Appeal Committee and the Supervisory Board of the Reserve Funds for Pension and Social Security of the European Patent Organisation may instead adopt and apply their own instruments on the prevention and management of conflicts of interest.

Article 2
Conflict of interest

(1) A conflict of interest refers to a situation where the integrity of a decision, opinion or recommendation of an individual is, or might be perceived to be, actually or potentially compromised by a personal interest held by or entrusted to that individual.

(2) A relevant personal interest may be of a financial or non-financial nature and may include a private or familial relationship or professional affiliation (including additional employment, appointments or former as well as envisaged employment), or influence through a third party.

(3) A private or familial relationship includes parents, children, spouses, legally recognised partners, as well as any other family members who are dependent on a Member.

Article 3
Values and principles

(1) All Members shall seek to act with the highest standards of integrity when carrying out their duties.

(2) Members should not, in the performance of their duties, deal with a matter in which a conflict of interest would impair, or seem to impair, their integrity.

(3) The representation of interests of a Contracting State shall not, as such, be perceived as impairing a Member's integrity.

(4) Members shall not be guided by personal interests and shall abstain from being involved in taking a decision on a matter relating to their own interests.

(5) All Members shall declare, in good faith, without delay and to the best of their abilities, a conflict of interest to the Chairperson. The Council Secretariat shall assist the Members in identifying and declaring a conflict of interest.

(6) On the basis of such a declaration, the Chairperson shall, if and to the extent necessary, make arrangements to resolve the conflict, including the submission of a proposal for a Council decision if needed.

(7) A conflict of interest of the Chairperson shall be declared to the Deputy Chairperson. A conflict of interest concerning both the Chairperson and the Deputy Chairperson shall be declared to the longest serving Member or, in the event of equal length of service, to the oldest Member of the Council. Paragraph 6 shall apply, mutatis mutandis, to such declarations too.

(8) The Council Secretariat shall keep confidential records of any declaration of a conflict of interest, as well as the arrangements for resolving such conflicts, so as to enable the Council to demonstrate, if necessary, that such conflicts have been appropriately identified and managed. Access to these confidential records shall only be provided to Members of the Council upon request and subject to the demonstration of a legitimate interest.

Article 4
Process regarding omissions or inconsistent information

(1) Where the Chairperson has been made aware of information that has been omitted in, or is not consistent with, a declaration made by a Member, such information shall be preliminarily assessed by the Chairperson. Where the preliminary assessment by the Chairperson suggests that such an omission or inconsistency concerns a conflict of interest that should have been declared, the Chairperson shall seek additional information from the Member concerned.

(2) The Member shall update the missing information or rectify an incorrect declaration. Upon completion of the update or rectification, Article 3(6) and (8) and, when appropriate, paragraph (3) of this Article shall apply.

(3) In cases where a Member has been involved in a decision-making procedure of the Council without having declared a conflict of interest, or having omitted or provided inconsistent information, the Council may undertake remedial actions, in particular a review or revocation of that decision if the conflict of interest seriously affected, or created the impression of having seriously affected, the decision.

(4) Paragraphs 1 to 3 shall apply, mutatis mutandis, to omitted or inconsistent information relating to conflicts of interest under Article 3(7).

Article 5

This decision enters into force on 27 June 2024.

Done at Munich, 27 June 2024.

For the Administrative Council

The Chairperson
Josef KRATOCHVÍL

Mandate of the Technical and Operational Support Committee

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the Rules of Procedure of the Administrative Council, and in particular Article 14(1) thereof,

Noting the opinion expressed by the Technical and Operational Support Committee,

HAS DECIDED AS FOLLOWS:[1]

Article 1

The mandate of the Technical and Operational Support Committee as set out in the Annex of this decision is hereby adopted.

Article 2

This decision enters into force on 11 December 2024.

Done at Munich, 11 December 2024

For the Administrative Council

The Chairperson
Josef KRATOCHVÍL

1 Decision of the Administrative Council CA/D 14/24.

ANNEX

Mandate of the Technical and Operational Support Committee[1]

Article 1

The Technical and Operational Support Committee (TOSC) is established, in conformity with Article 14(1) of the Rules of Procedure of the Administrative Council, as a subsidiary body advising the Administrative Council on questions falling within the Committee's mandate (as set out in Article 2).

Article 2

The TOSC shall advise and support the Administrative Council in the following technical and operational matters:

a) European and international co-operation

(1) The TOSC shall provide an opinion on the EPO's co-operation policy with the Contracting States and monitor progress in the implementation of the co-operation projects within the European Patent Network.

(2) In the area of international and multilateral co-operation, the TOSC shall monitor cooperation initiatives in the broader perspective of the European patent system and its global outreach.

b) Information technologies and digitalisation

(1) The TOSC shall monitor progress in the digital transformation of the European Patent Office and in the development of user tools and services.

(2) The TOSC shall support discussions on IT co-operation with the Contracting States, including on data exchange.

(3) Relying on the work carried out in the technical working groups, the TOSC shall support the wider dissemination of information on IT co-operation projects within the Contracting States.

c) Patent intelligence

(1) By encouraging co-operation between national patent offices and the European Patent Office, the TOSC shall act as a forum for exchanging details of patent information dissemination projects in both Contracting and non-Contracting States, with a view to supporting the development of new patent information products, finding more efficient and accessible distribution methods and monitoring the status and trends in the field.

1 Adopted by decision of the Administrative Council CA/D 14/24.

(2) The TOSC shall consider the general guidelines on the annual training programme of the European Patent Academy as set up by CA/D 7/21 (the "Academy"). It shall also provide opinions on the Academy's draft annual work plan as well as on the Academy's reports on its activities. If required, it shall set up ad hoc thematic working groups to discuss specific training and education matters.

(3) The TOSC shall act as a forum for exchanges on initiatives to promote technology transfer and knowledge about patents.

d) Quality management system and patent quality standards

The TOSC shall serve as a forum which will contribute to a further development of patent quality standards within the European Patent Network and the common understanding of quality built on the EPO Patent Quality Charter. This shall be achieved through exchanges of best practice in quality management and assessment between national patent offices and the EPO.

e) Outreach and use of the patent system

(1) The TOSC shall give an opinion on the biennial work plan of the Observatory on Patents and Technology as set up by CA/47/22 (the "Observatory").

(2) The TOSC shall give an opinion on the yearly overview of the Observatory's activities.

European patent information policy

EUROPEAN PATENT INFORMATION POLICY

I. DEVELOPMENT OF PATENT INFORMATION POLICY

The framework for the patent information policy of the European Patent Office was adopted by the Administrative Council of the European Patent Organisation in June 1988 (CA/D 12/88). The objectives were defined as follows:

> "The aims of European policy with regard to the production and dissemination of patent information shall be
>
> Primarily to improve access to patent information in Europe for the general public and for industry – in particular small and medium-sized enterprises – in order to stimulate innovative activity, through the national offices of member states and non-commercial libraries which co-operate with these offices. To this end, the EPO will actively support their activities in the field of patent information.
>
> Secondarily to take into account the existing European patent information industry without distorting competition between commercial operators."

At this point, national patent offices were sending data – under bilateral agreements in a framework laid down by WIPO – to the International Patent Documentation Center (INPADOC) in Vienna. INPADOC provided a number of patent information services (Patent Family Service, Patent Classification Service and Patent Applicant Service) on microfiche, supplied the accumulated data in a standardised format to database hosts on a commercial basis, and also maintained an online database (PFS/PRS).

CA/D 12/88 established that, in the event of INPADOC being integrated into the EPO, an equal pricing policy would apply to the patent offices of member states of WIPO for INPADOC products covered by the agreement between WIPO and the Republic of Austria.

Regarding the respective roles of the national patent offices and the EPO, it was decided that the latter would concentrate on establishing databases and collecting data under exchange programmes. As a central provider or "wholesaler" of patent information, it would make its databases available to other operators.

As a data producer, the Office would concentrate on setting up and developing databases needed for its own activities and for those of the national offices of the member states.

The pricing policy for patent information products was modified in CA/67/92.

Proposals for amending patent information policy were set out in CA/9/96.

The pricing policy was summarised in CA/62/97 Rev. 2.

CA/160/97 presented the Distributed Internet Patent Services, introducing the Espacenet system with Level I and Level II servers.

The patent information policy pursued by the Office takes account of the above principles.

The technical possibilities in this area have been transformed by the advent of new storage media and the World Wide Web, unlocking the potential of the internet for providing new services.

With political change and economic globalisation, the protection of niche industries by individual states or groups of states has become anachronistic. Instead, the aim must be to create a basis for the free development of markets by making standard technologies widely available – as in the telecommunications industry.

Membership of the European Patent Organisation has grown considerably, and the number of countries seeking to improve patent information provision for their domestic industry has also increased.

In addition, the past few years have seen changes in patent information usership. When the Office's patent information policy was first implemented, the use of patent information was largely confined to technical experts with a special interest in patents.

The internet made access to patent information easier, and new categories of users emerged. Universities in many countries were told by government to start organising their own funding, which has led them to recognise the possibility of protecting ideas by patents and to concentrate their resources on innovative projects seeking results not already achieved elsewhere. Universities are therefore making increasing use of information contained in patents and are publishing the results of their research in the form of patent documents.

Innovation cycles are getting shorter, and companies with plans for new products are becoming ever more attractive to investors, who have an interest in assessing the economic potential of current R&D projects or existing patent rights. The value of patent applications and published patents as a source of economically relevant information has been widely recognised by analysts and investors.

The EPO and national patent offices have made good use of the new technical possibilities and have greatly improved and simplified access to the raw data. A total of 74 offices and organisations are now sending data to the Office, which distributes it at marginal cost to other operators. The introduction of standards such as XML will reduce the cost to these operators, while increasing the quantities of data that can be processed.

The hope that these measures would considerably reduce commercial services' cost to end-users has only been partly fulfilled. The Office's original pricing policy, forgoing potential revenue, has not benefited end-users. The commercial operators' explanation for this is that not all the required data – e.g. full texts – is freely available. At the same time, they are demanding faster delivery of even more complete data, and still more effective checking and correction procedures.

For those groups – e.g. universities, SMEs and individual inventors – which still make far too little use of patent information, the high prices and often complicated use agreements are too big an obstacle. They are particularly interested in

national-office and EPO services enabling users to search national or international collections on the Office's Level I and Level II servers (Espacenet) and to download data free of charge for further processing (OPS).

The commercial interest groups argue that if this policy continues, the providers of complex information services with added value would no longer have the financial resources to continue offering them, because of competition from free information services.

II. CURRENT CHALLENGES

The situation has changed fundamentally since the principles of patent information policy were first laid down. Patent information policy needs to be modernised and reformulated accordingly.

A. TECHNICAL DEVELOPMENTS

At the time of the original decision on patent information policy, paper was still the main publication medium. Access to online databases, with user-unfriendly interfaces, was limited to specialists. CD-ROMs were still at the trial stage.

Since then, print has been largely superseded by optical media (CDs and DVDs). The adoption of the Office's ESPACE standard has ensured that the various products on the market are largely compatible. However, these media have already passed their zenith. They still have advantages for storing and copying information, but in future, their use will be restricted to static data collections. With the introduction of the publication server, the Office has formally gone over to electronic publication for patent applications and specifications. Many national offices are likely to follow suit in the near future.

The internet revolution has also led to the emergence of new competitors, e.g. Google, whose revenue no longer comes from the sale of data but from other sources, such as advertising. This has repeatedly undermined the distinction between service categories. Thus the supply of facsimile data and/or full-text documents is now considered a basic service, instead of a value-added one as only a few years ago.

The transition to electronic publication has radically reduced the interval between publication and the distribution of the information to patent information services. The Office can make its own data, and that of other offices, available directly on the day of publication.

Cheaper IT structures and increased processing power now make it possible for all commercial patent information operators to monitor data for errors and gaps. The Office has to address this challenge and improve the quality of data. At the same time, it must build a relationship of trust with patent information users by documenting known errors and correcting them as quickly as possible.

The rapid pace of technological development in this area has led to the creation of a wide range of EPO services, using different formats and standards. At present, data is supplied in widely differing formats and has to be combined by the end-user or the commercial operator to get a complete result. Here, there is an urgent need for action by the Office to remove the existing technical obstacles.

The Office receives data from both contracting and non-contracting states. Supplying basic bibliographic data to end-users and commercial operators is unproblematic, but there are reservations about providing full texts and citation data. These misgivings date back to a time when there were fears of market distortion by competition between the Office and the national offices and/or certain commercial operators favoured by the latter.

These fears have proved unfounded. However, the policy has led to unequal treatment of end-users of patent information. Up to now, the commercial operator has had to provide certification from the patent office sending the data, showing that it agrees to the supply of full-text data to the operator. The commercial operators often did not seek the office's approval, so the data was duplicated, at an extra cost which ultimately had to be borne by European industry. The EPO has now asked the relevant member states to agree in general to the supply of their full-text data to other operators. AT, CH, DE and GB have welcomed this move and given their consent; the response of BE, FR and WIPO is still awaited.

The proposed policy modification provides for "barrier-free" access to patent information. The basis for this is that all users are treated equally and that there are no limits on supplying particular data elements. In addition, access to information must be made easier for inexperienced users. In the long term,

- the system has to be simplified
- the documentation of standards and rules has to be improved.

Electronic assistants are needed to point out possible problems to users, who can then seek expert help.

Barrier-free access also means that the visibility of patent information should no longer be restricted to products within the existing patent information sphere: in the age of the internet, patent information can and must flow into other standard information services.

B. CHANGE IN USER GROUPS

When EPO patent information policy was originally defined, the main users were librarians and documentation experts. This changed, gradually at first, but then radically.

Companies began to use patents to ward off competitors and reward employees, and for advertising purposes. Modern technologies with short innovation cycles call for a plentiful supply of risk capital; IP rights help to secure this by protecting business ideas and thus enhancing their prospects for commercial success. A company's patent portfolio is thus an indicator

of how well it is equipped for the future. Evaluating the portfolio requires detailed analysis of the background information found in patent information databases, to establish whether an idea is really a pioneering invention or a mere modification of an existing product, whether competitors can be kept out of the potential market, and whether the company's stock of patents is consistent with its product range. This in turn makes it possible to ascertain whether IP rights could be better used by selling or licensing them than by manufacturing the invention. Thus a completely new user group, made up of financial experts and market analysts, has to be addressed. This is a new task for the national patent offices. If they wish, the EPO could support them in creating a Europe-wide structure for these services, by taking over existing projects or launching new ones.

Thus there are new ways of using patent information, in addition to the original possibilities.

European economies, facing intensified competition, must recognise the need to minimise wasted research by intensive use of patent information and the free technologies published in patent applications. They must also acknowledge the growing importance of patent information from Asian countries, and make use of this too.

C. ALTERING THE BALANCE BETWEEN INVENTOR AND PUBLIC

With modern communication technology, patent information can be made available to the public much more efficiently than 20 years ago, and balance thus restored to the relationship between inventors/patentees and the public. This is not just a matter of creating the necessary technical conditions, i.e. supplying the data over the internet; it also means ensuring – through information, training and suitable tools – that the public actually makes use of the services offered.

D. PATENT INFORMATION PROVIDERS

The market for commercial operators has changed considerably since the introduction of the Office's patent information policy in 1988. The internet has become the distribution medium of choice, complicated pricing structures have been replaced by flat fees, information can now be delivered automatically ("push" services), and host services can be tailored to the requirements of the end-user's internal databases.

The number of commercial providers – and their geographical distribution – has also changed radically. Ten years ago, the EPO was supplying data to 40 commercial operators; today, the figure is only 24 (-40%). Twelve of those 40 operators have been bought up by a single US publisher. Of the 24 firms now remaining, one third are based in the USA, one third in Asia, and the remaining third in Europe.

Of the remaining seven European providers, two are large firms – one French, the other German – which in terms of turnover and staff numbers dominate the market, with a combined share of around 80%. The remaining 20% is divided between one firm with 10% and four with around 2.5% each.

An optimistic estimate of the total turnover of the seven European operators would be about EUR 50m, providing around 300 jobs. At the large firms, the latter figure only includes staff working directly on commercial information provision, and most other computer centre services. Most firms also offer other databases, as well as supplying patent information.

The existing patent information policy stipulates that the European Patent Office must conduct its activities "without distorting competition between commercial operators". This protection for a niche industry has artificially obstructed the use of internet services by the public and interested industrial sectors, and seriously held back the necessary technical improvement of those services. One example of this is the long delay in offering fully downloadable electronic patent documents, as all users want, instead of access limited to one page at a time.

In recent years, however, the EPO has pursued a policy that has enabled patent information providers to develop new services of their own. This makes it possible for new firms to emerge with new business ideas, and allows established operators to extend their activities. It also overcomes the delay just described in modernising the Office's services.

An example of this technology is OPS (Open Patent Services). There is major potential for further development here if full texts and facsimile pages are offered in addition to bibliographic and legal status data.

The linguistic diversity of Europe poses a problem in searching patent documents. Here, Google's concentration on US patent literature could have negative consequences. It would be in the European interest for the Office to support Google in building up a data collection which also includes European patent documents and national data from the member states.

It is therefore proposed that the artificial brake on development be removed, that information providers be allowed in return to develop services of their own on the basis of those provided by the Office, and that support in building up data collections be given to all patent information providers.

E. MEMBERS OF THE EUROPEAN PATENT ORGANISATION

In 1988, when patent information policy was first defined, there were 14 EPO member states. In 2005, the average filing rate in these countries was 160 applications per million population.

The equivalent figure for all 31 current member states is 110 applications per million population. This is accounted for by the low filing rate – on average, 18 European patent applications per million inhabitants – in the 17 member states which have joined the Organisation since 1988.

Thus there is an urgent need in these countries for additional efforts in the dissemination of patent information. Of these 17 countries, only one has an EPO language as an official language; by contrast, only five of the member states in 1988 had non-EPO official languages. This highlights the need for national patent offices to play a much more central part in disseminating patent information.

When modifying patent information policy in the light of these circumstances, it must be borne in mind that direct access to patent information via the internet is independent of geography. The national patent offices clearly have a key role in the transmission of patent information, since only they can make information available in their national language and in accordance with local conditions.

In view of the changed structure, an improvement of the use of patent information is desirable in all the member states, but is a matter of particular urgency in the above-mentioned 16 countries lacking an EPO official language.

The activities of the national patent offices are even more important now, given the greater linguistic diversity and the differences in the structure of industry, than at the time when patent information policy was first formulated.

The EPO and the national offices must avoid accusations of unfair competition with commercial operators. The Office therefore commissioned a group of experts on EU competition law (from the London firm Freshfields Bruckhaus Deringer) to examine whether the reformulation of patent information policy posed a risk with regard to unfair competition.

The experts' main finding is as follows: "It should be possible for the EPO to rebut a presumption of predation. This since there is an objective justification for the EPO's intended new information policy; that is to benefit consumers and to encourage barrier-free access to patent information even for users with little technical expertise or search experience. Even if a long-term ‚side-effect' of the EPO's policy could be that some/all commercial providers of patent information would lose some/all of their business, this would not necessarily lead to the policy approach being abusive. If the commercial providers of patent information really offered value-added services to consumers at reasonable prices and marketed them appropriately, it would be unlikely that the EPO's policy change would seriously affect their level of business."

Patent information helps to ensure that research spending is accurately targeted, and can improve the efficiency of the patent system by preventing low-quality applications from blocking search and examination capacity. This requires the full involvement of the national patent offices in the exchange of patent information, the aim being to ensure that they all reach an equally high level.

III. CLARIFICATIONS IN RESPONSE TO COMMENTS RECEIVED

A. PRICING POLICY

The Office's pricing policy distinguishes between services such as Esp@cenet and OPS, which are free of charge, and services offered to users at marginal cost.

One reason for providing information free of charge to end-users lies in the duty of patent offices to provide full information on the rights they have granted. Right-holders have to pay for this via the fee system. A further reason is that actively promoting the availability of patent information can improve the quality of patent applications.

Published applications are also a ready source of information on technical developments, which prevents wasted spending on duplicated research. Vast investment resources can be put to better use, with a view to realising the Lisbon agenda, by ensuring that patent information reaches its target audience.

The EPO does not set up information services for profit. This is left to commercial providers and national patent offices.

When services are created, their costs are clearly defined and shown. The services are tailored to specific user groups, with a clear distinction between basic and supplementary information as a starting point for applying different pricing or cost models.

B. ECONOMIC ANALYSIS OF PATENT DATA

The Office does not intend to provide economic analyses of patent portfolios, and will only produce statistics, as in the past, to monitor filing trends. However, in view of the growing interest in the statistics-based evaluation of patent portfolios, it will offer data collections that facilitate this. At the request of national offices or patent documentation/innovation centres, it will also take part in projects concerned with this important topic, and arrange suitable training and information workshops.

C. DIRECT CONTACTS WITH INDUSTRY

In the Office's view, establishing and maintaining patent information contacts with industry is a task for the national patent offices, which can draw on their knowledge of local conditions to tailor services to specific industry needs.

The EPO will maintain its contacts with industry for the purposes of improving services, organising training in new technologies (for example, XML) and presenting new developments, and will continue to inform the national offices about these activities. The Working Party on Technical Information has proved to be a suitable forum for this.

The Office supports patent information providers by supplying them with data, collected for its own purposes, in a standardised form suitable for further processing and at marginal cost, thus eliminating any risk of unfair competition. From a position of equality, the Office and the patent information providers can then develop services based on this data. Such services are only offered free of charge by the EPO where this is necessary to ensure the free dissemination of knowledge about granted patents, as required by the "bargain" theory of patenting, or where it is otherwise in the public interest.

D. ADDITIONAL TASKS OF NATIONAL OFFICES

New ways of using patent information are creating a range of new tasks for national patent offices and patent information/innovation centres. The free availability of internet services such as Google is expected to boost the demand for qualified advice, as is the use of patent information in new areas such as economic analysis and statistical monitoring; the same also applies to legal status data. The offices of the new member states, especially those which do not have an EPO language as an official language, face particular challenges in this respect.

E. PATENT DOCUMENTATION AS GENERALLY AVAILABLE INFORMATION

The Office has been trying hard since 1990 to make patent documents widely accessible, but they have remained an exceptional form of information used mainly by specialists. While Esp@cenet has produced significant changes, the breakthrough has yet to come. The availability of patents via general search engines such as Google represents an opportunity to tap the potential of users who need quick access to specialised information.

Supplying data to Google is covered by current patent information policy, but will have a far greater impact than the existing supply arrangements with patent information providers.

It is a matter for concern that Google is at present only offering US documents, which puts European industry at disadvantage. The Office will therefore seek to co-operate with Google and persuade it to incorporate patent documents from other sources, using EPO-supplied data to build up these collections and safeguard data quality.

IV. PATENT INFORMATION POLICY FOR THE EUROPEAN PATENT ORGANISATION

A. BASIC PRINCIPLES

The Office's patent information policy complies with the guiding principles of subsidiarity and complementarity.

In line with the member states' request to that effect, the collation, standardisation and offer of databases will be handled centrally by the Office, whilst the national offices, in accordance with the principle of subsidiarity, will be responsible for analysing the needs in their country, responding to

those needs and evaluating the results. Provided the relevant national office agrees, the Office may conduct projects for or in a country in accordance with the principle of complementarity.

B. OBJECTIVE

The aim of the patent information policy is to make it easily accessible from all countries so as to build up the knowledge society in Europe and enable European industry to have direct access to that information. Moreover, global access to the information should enable European industry to obtain high-quality patents even outside Europe.

C. PRICING POLICY

The existing pricing policy based on CA/62/97 Rev. 2 and CA 160/97 will be maintained, i.e., the patent information will be supplied free of charge or at marginal cost. This means the following pricing of EPO data and products will be applied:

1. The national offices of the member states and their recognised regional information centres are sent the Office's data free of charge at the time of publication. The principle of reciprocity applies.
2. All other interested parties receive EPO data at marginal costs or in case of webservices like Esp@cenet or the Publication Server free of charge.
3. The above applies to all categories of data, including the added-value databases prepared by the EPO, in particular those of INPADOC. The data contained in these databases are furnished to the EPO free of charge.
4. The EPO may deviate from the general rule under 2 if the national office of a third country does not make its data available to users in the member states under similar conditions.
5. The EPO words contracts in such a way as to ensure that data use meets the aforementioned conditions and that follow-up, in particular for statistical purposes, is possible.
6. These provisions do not affect existing exchange agreements under the European Patent Convention.

When examining the effects of granted patents, a distinction must be drawn between several categories of users, bearing in mind that individuals or firms may fall under more than one category, depending on their role.

- Patent applicants

  This is the smallest group in terms of numbers but it also has the greatest interest in the cheap grant of patents.

- Active observers of patent information

  This group wishes to derive the greatest benefit from patent information. Whilst it wants patent information cheaply, it has accepted that costs will arise if patent information is processed systematically.

- Those affected by the grant of a patent

  All natural and legal persons are affected by the grant of a patent since each granted patent limits the freedom to carry out commercial activities.

If the principle that ignorance of the law is not a defence is to be complied with, the law in question must be published. All modern societies have attempted to provide statutory texts as far as possible free of charge.

Generally available patent information should therefore be financed by the group benefiting most from the granted patents, i.e. via the fees paid by applicants.

High-quality patent information, especially that offered by patent information providers creating added-value services, should, however, be financed by the "power users" themselves by payment of a price including at least a cost-recovery charge.

The termvalue-added refers in that context to extra intellectual efforts or to extra computing efforts, the latter might change depending on the technical development.

D. CO-OPERATION AND TASK-SHARING WITH NATIONAL OFFICES

The Office regularly presents its new patent information products, tools, services and training aids, together with an overview of further development plans and general patent information activities, and will continue to do this within the framework of the WPTI.

If the member states' patent systems are to be used effectively, an infrastructure for using patent information must be in place. In most member states, national patent offices – having the necessary contacts with SMEs, and local language knowledge – are best placed to drive this forward. They can use tools and databases provided by the Office, adapt them to local markets and address the issues specific to their country. They thus create the basis for using the uniform IP infrastructure to be created in Europe through co-operation policy.

Further projects to improve access to patent information in Europe can also be launched in co-operation with national patent offices, provided that no extra cost to the EPO is involved, or that the project is financed in the framework of the co-operation. The emphasis here is on adaptation to local markets and on non-EPO languages.

The Office will support these activities by improving and extending the methods for central data delivery. In future, end-users such as universities and SMEs will increasingly want to access data directly, rather than via commercial operators. This will raise the requirements for standardisation and barrier-free access. End-users do not sell or distribute these data and need to understand or process them without too much additional training.

At the same time, the Office will step up its efforts in the use of modern technologies to provide training and information tools, offering easier access to patent information. This requires intensive contacts with end-users and also with the patent information centres of the national offices.

The Office's main role is in creating central stocks of high-quality, standardised data, establishing arrangements for the distribution of data to patent information providers, and building up Web-based services. Here, information is provided free of charge; the Office does not act as a host.

The task of the national patent offices will be to determine needs, plan and conduct key activities and monitor the success of measures for the dissemination of patent information in the individual member states.

NPOs will offer patent information services tailored to the requirements of national industry, SMEs, universities and other end-users. They will be supported in this by the EPO.

E. RELATIONS WITH COMMERCIAL PROVIDERS OF PATENT INFORMATION

Under this policy the Office will make available, at marginal cost, improved and more comprehensive data collections, together with tools for analysing this data to provide services for end-users.

As in the past, the Office will make known its medium-term plans for extending the services offered to commercial operators and the facilities available to end-users. The further extension of these services and facilities will be determined primarily by the objectives laid down in patent information policy.

F. PATENT INFORMATION IS UNDERSTOOD TO COMPRISE:

- the descriptive content of published applications and granted patents
- bibliographic data (priority, filing date, inventor, applicant, classification) in published patent documents
- legal status data relating to patent applications and published patents, including information on patent proprietors and licences
- additional information, obtained through statistical analysis of the data, on patenting strategies, ownership structures and development trends, from which conclusions can be drawn about the economic significance of patent applications and patents.

G. AIMS OF EUROPEAN POLICY WITH REGARD TO THE PRODUCTION AND DISSEMINATION OF PATENT INFORMATION:

- support and accelerate technological innovation, development and research in Europe
- contribute to strengthening the patent system worldwide and thereby facilitate access to other markets for European industry on a basis of reciprocity
- collect and standardise published patent information from all over the world and make it usable for European industry.

H. STRATEGY TO ACHIEVE THESE AIMS:

- actively supporting the patent offices of the member states in their efforts to make patent information available to the European public, either directly or via patent information centres and libraries
- ensuring barrier-free public access to the information contained in patent documents, especially for small and medium-sized enterprises, universities and research centres, industry and bodies involved in filing patent applications, granting patents and disseminating patent information
- facilitating the drawing-up of high-quality patent applications, by disseminating the data collections and relevant tools used by the European Patent Office for novelty searching
- supporting the strengthening of patent systems worldwide by making data and tools available over the internet to ensure more intensive use of patent information
- developing and refining tools to make the data collections and search engines accessible to users with little technical expertise or search experience
- organising and/or supporting information and training on the purpose of patent information and the relevant methods and tools
- actively establishing the wishes of European patent information users, and taking them into account as far as possible.

European Patent Academy

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention and in particular Article 33(2 (e) thereof,

Having regard to the Rules of Procedure of the Administrative Council of the European Patent Organisation and in particular Article 14(1) thereof,

Having regard to decision CA/D 10/04 setting up an Academy of the European Patent Organisation and adopting the Regulations thereof,

Having regard to the feedback received from the contracting states during consultation on the revision of the structures of the European Patent Academy,

On a proposal from the President of the European Patent Office under Article 10(2)(c) European Patent Convention,

HAS DECIDED AS FOLLOWS:[1]

Article 1
Repeal of Council Decision CA/D 10/04

Council Decision CA/D 10/04 setting up an Academy of the European Patent Organisation and adopting the Regulations thereof is hereby replaced by the present decision on modernising the structures of the European Patent Academy (hereinafter referred to as "the Academy").

Article 2
Reporting to the Administrative Council

Taking the Academy's annual workplan as a basis, the European Patent Office (hereinafter referred to as "the Office") will report annually to the Administrative Council on the activities planned and implemented by the Academy and their expected impact.

Article 3
Tasks of the Technical and Operational Support Committee relating to the European Patent Academy

The Technical and Operational Support Committee shall:

(a) provide an opinion on the Academy's draft annual work plan;

(b) provide an opinion on the activities conducted and the reports submitted by the Academy;

(c) set up, if deemed appropriate, on-demand thematic working groups within the Committee to discuss specific training and education matters;

(d) draw up a list of experts to be submitted to the Office for the composition of the patent education committees.

1 Amended by decision of the Administrative Council CA/D 7/21.

Article 4
Patent education committees

(1) The Office shall create patent education committees and seek their technical advice on matters of education in the area of patents and patent-related intellectual property.

(2) The patent education committees shall be composed of experts in intellectual property education and training, selected by the Office from a list proposed by the contracting states via the Technical and Operational Support Committee under Article 3 of the present decision, by representatives of user associations, by intellectual property education and research institutions, by intellectual property education networks and by the universities participating in the Pan-European Seal programme.

(3) The patent education committees shall meet regularly and provide any advice required by the Office on education in the areas of innovation and of patent granting, transfer and enforcement. They shall also strengthen relations between the Academy and the major training providers and programmes active in its field of activity.

Article 5
Patent certification support groups

The Office shall create patent certification support groups and seek their technical advice on matters relating to its education certification initiatives in the area of patents and patentrelated intellectual property.

Article 6
Term of office of external experts

The external experts on the patent education committees and patent certification support groups will be nominated by the Office for a term not exceeding three years. This term is renewable.

This decision shall enter into force on 13 October 2021.

Done at Munich, 13 October 2021

For the Administrative Council

The Chairperson
Josef KRATOCHVÍL

Outsourcing Policy

Considering the principle of appointing employees of the European Patent Office (EPO) on the basis referred to in Article 33(2)(b) EPC;

Having regard to the Conditions of employment for contract staff at the EPO, which enable the Organisation to react flexibly to changing personnel requirements under certain conditions and within certain limits;

Considering further the principles of economy and sound financial management laid down in Article 2 of the Financial Regulations, and the need to ensure the long-term financial sustainability of the European Patent Organisation;

Having regard to the Service Regulations and in particular to the role of the General Advisory Committee under Article 38(3) thereof;

Referring to the Human Resources Roadmap, which aims at ensuring consistency between business needs and human resources policies and has identified the EPO's outsourcing policy as one means of managing people and competences in general and as being in need of clarification;

Considering the EPO's need to define the principles which are to guide its managers in their decisions on buying in works or services (outsourcing);

Considering that outsourcing does not cover the provision of manpower, or the terms thereof, which could be used by the EPO for temporary support to cope with a short-term workload peak or to compensate for an unforeseen, immediate and short-term need;

Considering that the European Patent Organisation requires its contractors to respect the applicable provisions of law as well as the Organisation's internal legal framework and values;

Considering that the EPO will organise an awareness campaign for the management and will regularly monitor the implementation of this policy in order to ensure that it is consistently implemented and that lessons learnt are taken into account;

Without prejudice to the European Patent Convention and any secondary legislation, regulations or instructions adopted under it, including but not limited to the Service Regulations and the Financial Regulations;

the following policy is hereby adopted:

1. Permanent tasks of the European Patent Office are normally to be executed by employees of the Office.

2. In line with the applicable rules, the Office may buy in work and/or services from external suppliers (outsource) on condition that there is either no in-house expertise available with staff already in employment or that the task is not, or no longer considered to be, of a permanent nature, or that outsourcing ensures substantive economic benefits for the Office, taking into account the related risks and costs.

3. Outsourcing may further not lead to the loss of internal expertise and competencies to such an extent that the continuity of the Office's mission is put at risk.

4. A decision in line with point 2 above shall be an operational decision to be taken by the unit responsible for the performance of the respective tasks or services at the appropriate hierarchical level, taking into account the impact of the decision, the need to co-operate and co-ordinate with other areas within the Office and the need to ensure consistency.

This policy will enter into force on 1 August 2012.

Munich, 24 July 2012

Benoît Battistelli
President of the European Patent Office

Agreement between the European Patent Organisation and the Republic of Austria concerning the integration of the International Patent Documentation Center (INPADOC) into the European Patent Organisation

THE EUROPEAN PATENT ORGANISATION (hereinafter referred to as "the Organization"),

Having regard to the Convention on the Grant of European Patents of 5 October 1973 (hereinafter referred to as "the Convention"), and in particular Article 33, paragraph 4, thereof,

and

THE REPUBLIC OF AUSTRIA

HAVE AGREED AS FOLLOWS:

Article 1

(1) With the entry into force of this Agreement, the assets of "INPADOC, Internationales Patentdokumentationszentrum Gesellschaft mit beschränkter Haftung" (hereinafter referred to as "the Company") shall be transferred to the Organization as its universal successor in title. Accordingly, but without prejudice to Article 2, paragraph 2, and Article 4, the Organization shall become party to all contracts and agreements concluded by the Company.

(2) The Organization waives any claim to payment of outstanding contributions to the Company's capital.

(3) Upon transfer of its assets under paragraph 1 the Company is dissolved. The Republic of Austria shall forward to the Organization a closing statement of accounts signed by the executive management on the date of transfer, and a provisional balance sheet for the Company. A balance sheet showing the position on the date of transfer shall subsequently be adopted by common accord between the contracting parties.

(4) The Company's executive management and supervisory board shall be considered discharged within the meaning of Section 35, paragraph 1, of the Austrian Law of 6 March 1906 (RGB1. 58) concerning limited liability companies, as currently worded.

(5) Nothing in this Agreement shall entail a foreclosure or constitute any acknowledgment whatsoever of debt vis-à-vis the Company's creditors, each of whom shall have to furnish evidence of his rights and substantiate his claims.

Article 2

(1) The European Patent Office shall perform for the central industrial property offices of the Member States of the World Intellectual Property Organization (WIPO) the services for the purposes of a worldwide patent documentation service provided for in Articles II and III of the Agreement of 2 May 1972 between the Republic of Austria and WIPO concerning the establishment of an International Patent Documentation Center.

(2) Where a central industrial property office is unable or unwilling to pursue with the Organization an existing contractual relationship with the Company or to enter into such a relationship with the former, the services referred to in paragraph 1 shall be performed through the Austrian Patent Office. The relevant arrangements shall be determined by the President of the European Patent Office in agreement with the President of the Austrian Patent Office.

Article 3

(1) With the entry into force of this Agreement the Organization shall establish a sub-office of the European Patent Office in Vienna.

(2) The task of the sub-office shall in particular be to perform services of the kind referred to in Article 2. Other tasks of the European Patent Office may also be assigned to the sub-office.

(3) The Organization and the Republic of Austria shall conclude an agreement supplementing and implementing the Protocol on Privileges and Immunities of the Organization and concerning the headquarters of the sub-office.

(4) The Republic of Austria shall assist the Organization in obtaining suitable premises for the sub-office.

Article 4

(1) The Company's executive managers and salaried employees ("Angestellten" within the meaning of the Austrian Law on salaried employees) who are on permanent contracts when this Agreement enters into force shall be appointed permanent employees of the European Patent Office upon their request. Appointment shall take effect on the date this Agreement enters into force.

(2) Staff appointed under paragraph 1 shall simultaneously be assigned to the posts listed in the appendix to this Agreement, taking into account their duties at the Company before the Agreement entered into force. Part-time staff shall have no entitlement to full-time employment.

(3) Permanent employees appointed under paragraph 1 shall be assigned step 1 in the grade carried by their post. A higher step may be assigned if, given the provisions governing recruitment to the European Patent Office and the circumstances of the particular case, this seems appropriate in the light of the individual's qualifications and the duties performed with the Company or a previous employer.

(4) Except where this Agreement provides otherwise, as from entry into force of this Agreement the Service Regulations for permanent employees of the European Patent Office (Service Regulations), the Pension Scheme Regulations of the European Patent Office (Pension Scheme Regulations) and their implementing rules shall apply to permanent employees

appointed under paragraph 1. Article 13 of the Service Regulations concerning the probationary period shall not apply.

(5) Notwithstanding Article 7 of the Pension Scheme Regulations, permanent employees appointed under paragraph 1 and with at least five years' effective service at the Company shall be entitled on request to a retirement pension under those Regulations after at least a further five years effective service with the European Patent Office.

(6) In lieu of the retirement and survivors' pension rights acquired under their contracts with the Company the executive managers shall be credited with reckonable years of service within the meaning of Article 6, paragraph 1, of the Pension Scheme Regulations in accordance with separate agreements between each executive manager and the President of the European Patent Office. Such agreements may dispense with the requirement of a minimum period of effective service at the Company under paragraph 5. In calculating any severance grants under Article 11, sub-paragraphs (ii) and (iii) of the Pension Scheme Regulations, the amounts payable under Article 12, paragraph 1, of the Pension Scheme Regulations for the crediting of a corresponding number of reckonable years of service shall be considered as paid to the Organization upon entry into force of this Agreement.

(7) As soon as possible after signature of this Agreement the European Patent Office shall indicate to each salaried employee of the Company entitled to request appointment under paragraph 1 the post, grade and step applicable in his case. The request for appointment as a permanent employee of the European Patent Office must be made in writing within one month of the date of receipt of this information, and is valid only if it contains an irrevocable declaration that the requester assents to termination of his contract of employment with the Company upon entry into force of this Agreement.

(8) For the Company's executive managers, assignment of grade and step under paragraph 3 and the procedure under paragraph 7 shall be regulated by the separate agreements concluded between them and the President of the European Patent Office when this Agreement is signed.

(9) Persons still employed when this Agreement enters into force and not entitled to request appointment under paragraph 1, or who within the period under paragraph 7 have made no written request for appointment as permanent employees of the European Patent Office, shall have their employment terminated by the Organization as soon as is permissible under the law applicable.

(10) Appeals alleging non-compliance with the employment-related provisions of this Agreement may be filed by permanent employees appointed under paragraph 1 under the same conditions as appeals alleging non-compliance with the Service Regulations. For all other matters, national courts shall have jurisdiction.

Article 5

Any dispute between the Organization and the Republic of Austria concerning the interpretation or application of this Agreement which is not settled by negotiation shall at the request of either contracting party be referred for final decision to an arbitration tribunal consisting of three members. One arbitrator shall be nominated by the President of the European Patent Office and one by the duly authorised representative of the Republic of Austria; these two arbitrators shall then nominate a third who shall chair the arbitration tribunal. If the first two arbitrators fail to agree within three months after their nomination on the nomination of the third, he shall be nominated by the President of the International Court of Justice at the request of the Organization or the Republic of Austria.

Article 6

The date on which this Agreement enters into force shall be determined by an exchange of notes between the President of the European Patent Office and the Federal Minister for Foreign Affairs of the Republic of Austria.[1]

Done at Vienna, on 2 July 1990 in two originals in each of the English, French and German languages, all three texts being equally authentic.

For the European Patent Organization

For the Republic of Austria

1 1 January 1991

APPENDIX

The table of posts below serves solely to implement Article 4, paragraphs 2 and 7, of the Agreement. Subsequent amendments will be effected under the terms of the Organisation's budget.

Administrative unit/Serial No.		Grade/Basic post	
I.	**Technical Services**		
1.	Head of unit and deputy head of sub-office	A5	Director
2.	Secretariat	B4	Administrative officer
3.	Deputy	A3	Administrator II
4.	Assistant	A2	Administrator I
5.	Data administration	B4	Administrative officer
6.	Data administration	B2	Clerk
7.	Messenger	C2	Employee II
8.	Data capture	B2	Clerk
9.	Data capture	B2	Clerk
10.	Data capture	B2	Clerk
11.	Distribution/despatch	C2	Employee II
12.	Distribution/despatch	C2	Employee II
13.	Programmer	B5	Senior administrative officer
14.	Operator	B5	Senior administrative officer
15.	Operator	B4	Administrative officer
16.	Operator	B4	Administrative officer
17.	Operator	B4	Administrative officer
18.	Correction	B2	Clerk
19.	Correction	B2	Clerk
II.	**Legal Affairs and Contracts; General Administration**		
1.	Head of unit	A5	Director
2.	Secretariat (vacant)	B2	Clerk
3.	Cashier/procurement	B4	Administrative officer
4.	Book-keeping/remuneration	B3	Administrative officer

5.	Book-keeping (part-time 62.5%)	B2	Clerk
6.	Internal services	C3	Employee III
7.	Messenger	C	Employee II

III. Data Exchange and Co-operation with Patent Offices; Microfilming

1.	Head of unit	A4(2)	Directorate assistant
2.	Deputy	A3	Administrator II
3.	Secretariat	B2	Clerk
4.	Secretariat	B2	Clerk
5.	Head of microfilming	B4	Administrative officer
6.	Production (part-time 50%)	C2	Employee II
7.	Production (part-time 50%)	C2	Employee II
8.	Production (part-time 62.5%)	C2	Employee II

IV. Distribution and User Information

1.	Head of unit	A4	Principal administrator
2.	Assistant	B4	Administrative officer
3.	Secretariat	B2	Clerk
4.	Secretariat	B2	Clerk
5.	Search	B2	Clerk
6.	Search	B2	Clerk
7.	Search	B2	Clerk
8.	Correction	B2	Clerk
9.	Correction (part-time 62.5%)	B2	Clerk