

CA/PL 20/00

Orig.: English

Munich, 28.03.2000

SUBJECT: Revision of the EPC: Article 164

DRAWN UP BY: President of the European Patent Office

ADDRESSEES: Committee on Patent Law (for opinion)

This document contains a proposal amending Art. 164 to make clear which matters may be dealt with in the Implementing Regulations to the European Patent Convention.

I. INTRODUCTION

1. One of the objectives of the current revision process is to streamline the Convention and to refer, wherever possible and appropriate, any details to the EPC Implementing Regulations. This approach as is reflected in many proposals already submitted to the Patent Law Committee has found broad support.
2. It therefore appears appropriate to amend Article 164 EPC to make it clear which matters, procedures and other details may be laid down in the Implementing Regulations. The proposed amendments are set out below. It should be noted that a specific reference to fees and time limits appears unnecessary in view of the proposals for revision of Articles 51 and 120 EPC (see CA/PL 8/00 and 18/00) which expressly deal with these matters so that they would fall within the ambit of Article 164(1)(a) EPC as proposed.
3. The proposed Protocol on Staff Complement (CA/6/00) is to be added to new paragraph 2.

II. PROPOSED AMENDMENTS

Present Wording

Article 164

Implementing Regulations and Protocols

(1) The Implementing Regulations, the Protocol on Recognition, the Protocol on Privileges and Immunities, the Protocol on Centralisation and the Protocol on the Interpretation of Article 69 shall be integral parts of the Convention.

Proposed Wording

Article 164

Implementing Regulations and Protocols

(1) The Implementing Regulations **shall be an integral part of this Convention and shall contain rules governing any procedures, administrative or formal requirements or other matter**
(a) **in respect of which the Convention expressly provides that rules shall be laid down in the Implementing Regulations; or**
(b) **useful to the implementation or interpretation of the provisions of this Convention, including the legal consequences of failure to comply with any such requirement or procedure.**

(2) In the case of conflict between the provisions of this Convention and those of the Implementing Regulations, the provisions of this Convention shall prevail.

(2) *Unchanged*

(3) The Protocol on Recognition, the Protocol on Privileges and Immunities, the Protocol on Centralisation, the Protocol on the Interpretation of Article 69 **and the Protocol on Staff Complement** shall be integral parts of this Convention.