

M I N U T E S

of the
70th meeting of the

ADMINISTRATIVE COUNCIL

(Munich, 4 March 1998)

The summary of decisions has been issued separately as CA/53/98.

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1. The Administrative Council of the European Patent Organisation held its 70th meeting in Munich on 4 March 1998, with Mr Fitzpatrick presiding. The list of participants is given in Annex I.
2. The Chairman welcomed the participants, and in particular Mr Zamboni di Salerano, the new head of the Italian delegation. He also welcomed Mr Combaldieu, the former Chairman of the Council, who was attending the meeting in his capacity as President of the Office for Harmonization in the Internal Market. Finally, he welcomed the newly appointed auditor, Mr Olinger.

I. ADOPTION OF THE PROVISIONAL AGENDA (CA/19/98)

3. The Chairman requested that the question of the appointment of two alternate members of the Supervisory Board of the Pension Reserve Fund be added to the agenda under "Other business". The WIPO representative asked for a discussion of a point concerning the automation of the PCT procedure, and the Belgian delegation added the question of the introduction of the euro.

II. APPROVAL OF THE DRAFT MINUTES OF THE 69TH MEETING (CA/171/97)

4. The Swedish delegation made a number of editorial amendments to points 97, 118 and 148. The Austrian delegation requested two changes, and the Netherlands delegation made a correction in point 67.
5. In accordance with the wishes of the French delegation, the Council postponed the formal approval of the draft minutes until its next meeting.

IIIa. OBSERVER STATUS FOR BULGARIA AND ESTONIA

6. To facilitate preparations for possible accession to the EPC, and in accordance with previous practice, the Council granted observer status on the Council and the Committee on Patent Law to Bulgaria and Estonia.
7. The Chairman then welcomed Messrs Päts and Lumi, the Director General and Deputy Director General of the Estonian Patent Office. The head of the delegation thanked the Council for its decision.

IIIb. OBSERVER STATUS FOR UNICE (CA/13/98)

8. Referring to the request dated 23 January 1998 and distributed as CA/13/98, the Chairman said that the heads of delegation had debated this question.
9. The Council then unanimously decided to send a reply along the following lines to UNICE:

"... The Council considers that an important body such as UNICE should have ample opportunity to convey views and opinions on the European patent system, its functioning and on any proposals for changes which would have a direct impact on users of the system.

Your request is timely in that the Council is currently considering its procedures together with aspects of the Convention which may be in need of review. In doing so it will examine how best to involve UNICE in its work and in the discussions leading to the final decision-making process, taking account of the fact that other representative bodies would no doubt also expect to be heard.

I expect to be in contact with you again in due course ..."

IIIc. INTERVENTION BY MR COMBALDIEU

10. Mr Combaldieu, the President of the Office for Harmonization in the Internal Market (Alicante) made a brief speech thanking the Council for inviting him to attend the meeting as an observer and praising the excellent co-operation between his Office and the EPO. The two organisations had common visions for the future, anticipating the realisation of the internal market. Mr Combaldieu reminded the staff of the many advantages of their international terms of employment, which surely entailed an obligation to keep their demands moderate. At all events, however, the staff remained the main capital of an organisation such as the EPO.

IV. REVISION OF THE EPC

IVa. LIST OF ITEMS TO BE REFERRED TO THE COMMITTEE ON PATENT LAW (CA/16/98)

11. The President briefly introduced CA/16/98.

12. The Austrian delegation considered that two items were missing from the proposed list: on the one hand, the explicit inclusion in the EPC of the extension system, and on the other, the problem of first and second indications for methods of therapeutic treatment.
13. The President said these two items had been omitted from CA/16/98 so that the heads of delegation could discuss them first. However, there would be no problem in referring them straight to the Committee on Patent Law if the Council so wished.
14. The Chairman felt it preferable to hold the two items back for the meantime to allow discussion by the heads of delegation.
15. The *epi* representative suggested that the question of therapeutic methods should be included, together with the issue of Article 53(b) EPC for the purpose of removing the present exclusion on plant and animal varieties. He also requested a discussion of Article 134(7) EPC, with a view to providing for assistance by a technical expert.
16. The Finnish delegation felt that the latter proposals should be discussed first by the heads of delegation.
17. The Chairman asked the *epi* to prepare a document, dealing in particular with the possible revision of Article 134 EPC.
18. The French delegation supported this request, while emphasising the legal difficulties surrounding this question.
19. The Chairman of the Committee on Patent Law said that, at this stage, the issues mentioned were still politically contentious and not yet ripe for discussion by a committee concerned with technical matters.
20. The Council thereupon decided to entrust the Committee on Patent Law with a detailed study of the items listed in CA/16/98; no conclusions about the Council's future position were to be drawn from the inclusion or exclusion of any specific item.

IVb. REPORT OF THE CHAIRMAN OF THE COMMITTEE ON PATENT LAW ON ITS 6TH MEETING CONCERNING THE REVISION OF THE EPC

21. The Chairman of the Committee gave an oral report on its 6th meeting. [A summary of conclusions from the meeting has been distributed as CA/PL 5/98.]