



**Europäische  
Patent-  
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Verwaltungsrat

**European  
Patent  
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Administrative Council

**Organisation  
européenne des  
brevets**

Conseil d'administration

**BOAC/4/22**

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**SUBJECT:** Diversity and inclusion in the Boards of Appeal – vision, mission and strategic plan 2022 - 2027

**SUBMITTED BY:** President of the Boards of Appeal

**ADDRESSEES:** Boards of Appeal Committee (for opinion)

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#### SUMMARY

The present document presents a draft Diversity and inclusion strategic plan 2022 - 2027 for the Boards of Appeal, including a vision and mission statement. The Boards of Appeal Committee is requested to give an opinion.

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This document has been issued in English and electronic form only.

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## **I. EXECUTIVE SUMMARY**

1. The ongoing Covid-19 pandemic has shown that well-being and inclusivity are more important than ever, both in society and at the workplace. Against that background, the relevance and value of a diversity and inclusion initiative in the Boards of Appeal (BoA) is self-evident. More diversity should enable BoA to attract talented individuals and help increase the confidence of the user community.
2. The President of the Boards of Appeal (PBoA) strives to create an inclusive judiciary where everyone feels valued and respected for their uniqueness – a place where all staff members can be themselves, empowered to reach their potential and help us build a modern judiciary. The BoA should be committed to providing an environment in which talented individuals can thrive, whatever their personal or professional background. As a judiciary we should be innovative and efficient, so that we can continue to deliver decisions of the highest quality in the interests of users and society at large. Diversity is a prerequisite for achieving this.
3. The present diversity and inclusion strategy provides a road map for creating an inclusive workplace in the BoA. It comprises six key goals and identifies the priorities and actions we aim to take over the next five years. It outlines key roles and responsibilities and how we can track progress and measure success.

## **II. INTRODUCTION**

4. The European Patent Office (EPO) is the second largest public service institution in Europe and the executive arm of the European Patent Organisation. It supports innovation, competitiveness and economic growth across Europe through commitment to high quality and efficient services delivered under the European Patent Convention (EPC), its founding treaty.
5. The BoA are the first and final judicial instance in the procedures before the EPO. Their task is to review contested decisions of the EPO's departments of first instance within the framework of the EPC. The BoA are the judiciary of the European Patent Organisation.
6. As part of the European Patent Organisation, the BoA should fully adhere to the diversity and inclusion vision and actions of the EPO. However, as an international judiciary of final instance, the BoA also need its own diversity and inclusion vision, mission and strategy that takes due account of the special character of the BoA.

### III. CURRENT SITUATION IN THE BOA

7. In March 2021, the PBoA created a diversity and inclusion working party (D&I), which includes staff from all functions represented in the BoA (chairpersons, members, registrars, members of the Presidium and staff from the support units), and mandated it with drawing up a diversity and inclusion strategy 2022-2027 and an accompanying communication plan for the BoA. The goal was to form an equal opportunity, modern judiciary that broadly reflected our member states, gaining a new empowered mindset and supporting and developing the potential of members and chairpersons, as well as support staff working for the BoA.
- A. D&I SURVEY OF THE BOA
8. A survey was carried out within the BoA in Q4 2021 to identify the D&I topics considered most relevant by the BoA staff. The results of the survey were the basis for the present BoA D&I strategy 2022-2027 and can be found in more detail in Annex 1 to the present document.
9. The survey was sent to all BoA staff on 27 October 2021 and closed on 11 November 2021. Fully anonymous, it was processed in accordance with the EPO privacy policy. The results were published on the BoA's intranet for all BoA staff.
10. The key findings can be summarised as follows:
11. Around 70% of BoA staff consider that the BoA, as an international judiciary, are committed to achieving a fair balance of diverse backgrounds at all levels. Only 9% disagree or strongly disagree with this statement.
12. 54% of BoA staff believe that the environment in the BoA should be more inclusive, 36% neither agree nor disagree with this observation and only 10% consider the environment in the BoA sufficiently inclusive (see point 66 in Annex 1).
13. Concerning diversity, 96 of 160 respondents (60%) indicated that gender should be addressed as a priority, followed by nationality (56%), professional background (32.5%) and disability (22%). Other aspects were ranked significantly lower, with religion being the least important (see point 67 in Annex 1).

14. With regard to inclusiveness, 75 of 160 respondents (47%) considered recruitment the area to be addressed as the highest priority, followed by work-life balance/flexible working (39%), career progression/leadership (32%) and a disability-friendly workplace (26%). Other areas were also ranked but to a lesser extent (see point 68 in Annex 1).
15. The survey included three open questions. The question about areas in which the BoA could improve so that nobody is left behind received 44 responses. These included suggestions relating to:
  - providing a better work-life balance, especially for female staff, who might not apply to join the boards because of a perception that working from home or part-time employment is either not appreciated or not possible in the BoA
  - maintaining human contact in times of teleworking and the "new normal"
  - the key role played by chairs in making sure that everyone is listened to and feels included
  - greater acceptance of diversity in styles of working
16. The second open question asked what respondents thought were the most critical D&I issues affecting the BoA and received the highest number of responses (67 replies). Issues addressed included the need to:
  - create more diversity in the candidate pool, which tends to be dominated by German candidates, often male, from a uniform professional background
  - attract more applicants from outside the EPO and ensure a better balance in terms of gender and nationality at the application stage
  - foster inclusiveness in a digital, new normal working environment
  - promote a better understanding of age-, health- and life-related circumstances
17. The third and final open question asked staff to describe a truly inclusive workplace and was answered by 49 respondents. Many appreciated the working atmosphere and the cooperative and respectful colleagues but indicated that there was room for improvement in terms of:
  - ensuring the balance of gender and nationality
  - making the workplace more disability-friendly

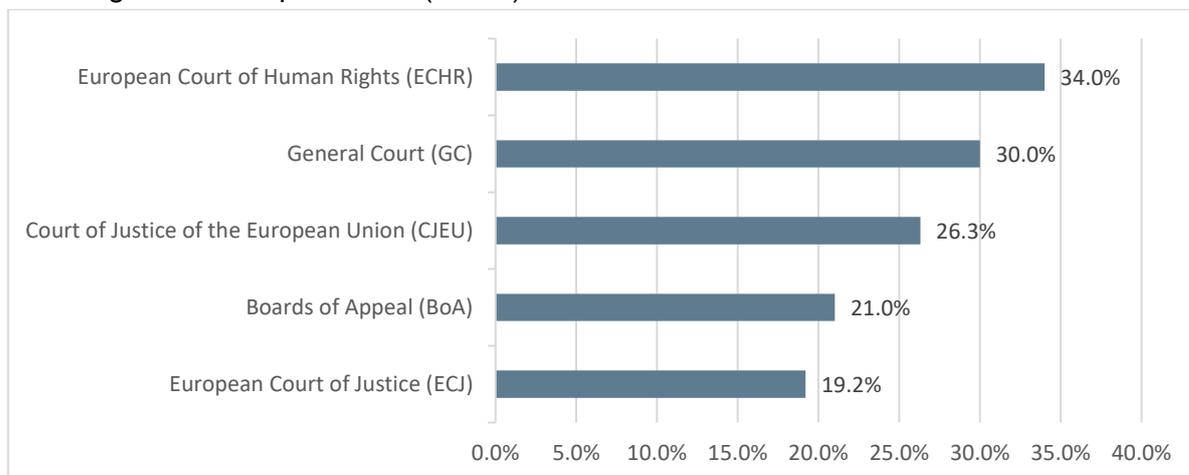
- ensuring greater respect for the differences in needs and styles between individual employees
- maintaining a sense of belonging

## B. STAFF STATISTICS

18. As of 31 December 2021 there were 196 chairs and members of the boards. The 136 technically qualified and 31 legally qualified members were divided among 28 technical boards and the Legal Board of Appeal. The total number of BoA staff, including the President of the Boards of Appeal, was 255.
  - a) Breakdown of BoA staff by gender
19. Of the 196 chairs and members of the boards as of 31 December 2021, 156 were male and 40 were female, representing an 80% to 20% gender imbalance. As regards the situation in the 29 chairs, this gap was even bigger, in other words, only 14% of the chairs were women.
20. There was also a significant disparity between the legally and technically qualified members, partly due to the professional background of these groups. As of 31 December 2021, 35% of the legally qualified members and just 19% of the technically qualified members were women.
21. A further indicator of where the BoA stands in relation to the gender gap amongst chairs and members is data from the European Institute for Gender Equality (EIGE). The table below shows the percentage of female presidents (chairs) and members of various European courts and in the BoA in 2020.

Figure 1

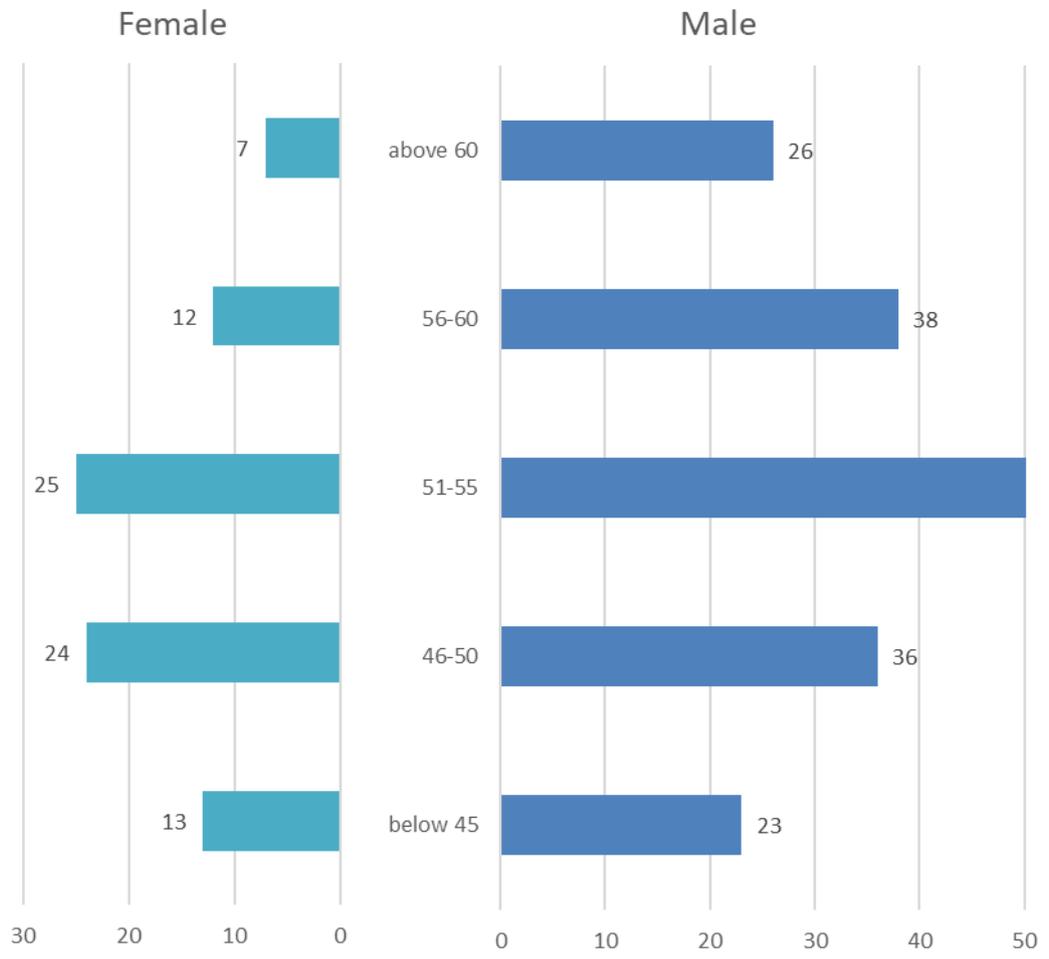
Percentage of female presidents (chairs) and members in EU courts and the BoA in 2020



b) Breakdown of BoA staff by age and gender

22. The average age of chairs and members in 2021 was 53. The biggest age group, for both male and female staff, was 51 to 55.
23. For support staff, the average age in 2021 was 51. Most staff were between 46 and 55 years of age.

Figure 2  
Age distribution of all BoA staff in 2021



c) Breakdown of staff by first nationality and gender

24. As of 31 December 2021, BoA members came from 19 different member states. 35% of members were German, 13% French, 11% Italian and 8% Spanish.

Figure 3

Nationality distribution of chairs and members in 2021 (absolute numbers)

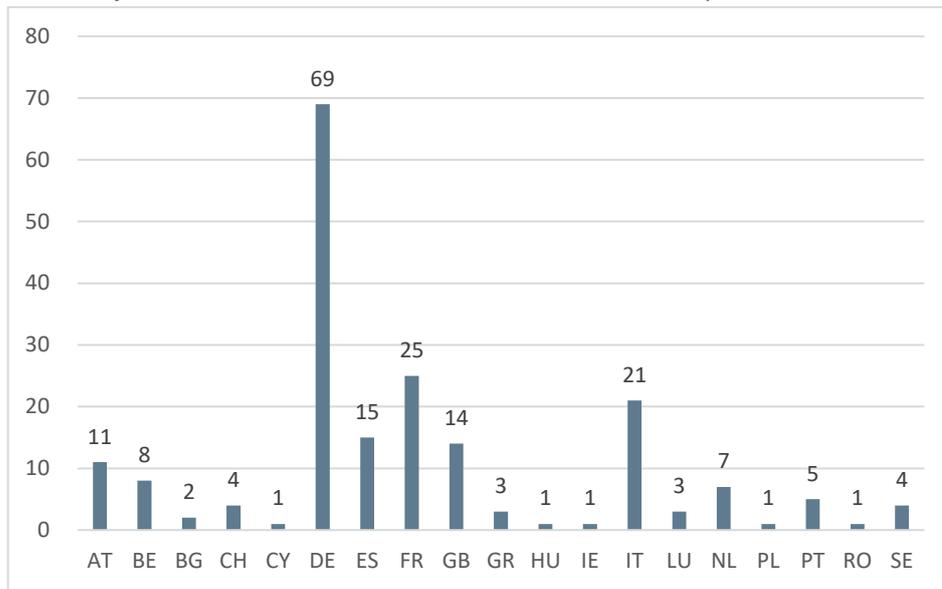


Figure 4

Nationality distribution of all BoA staff in 2021 (absolute numbers)

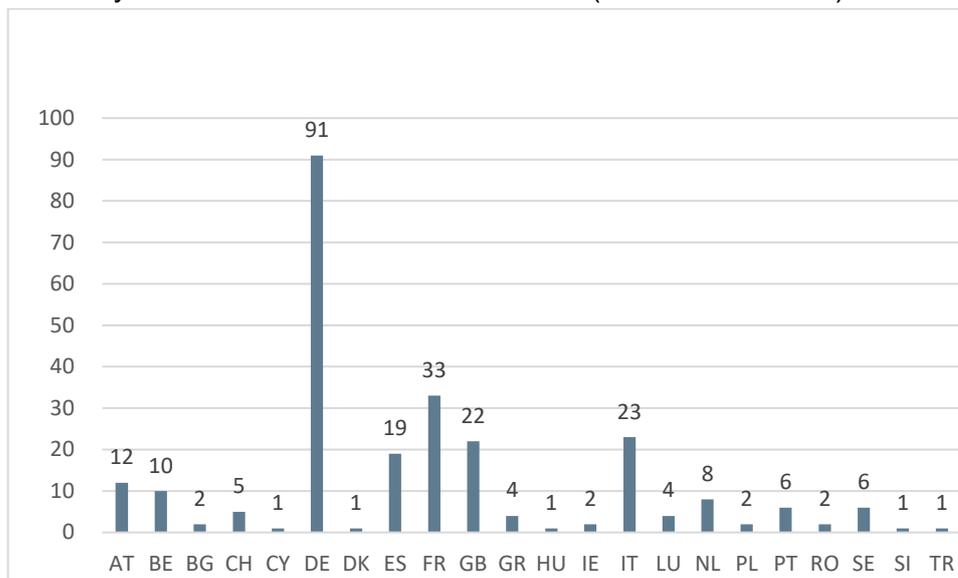
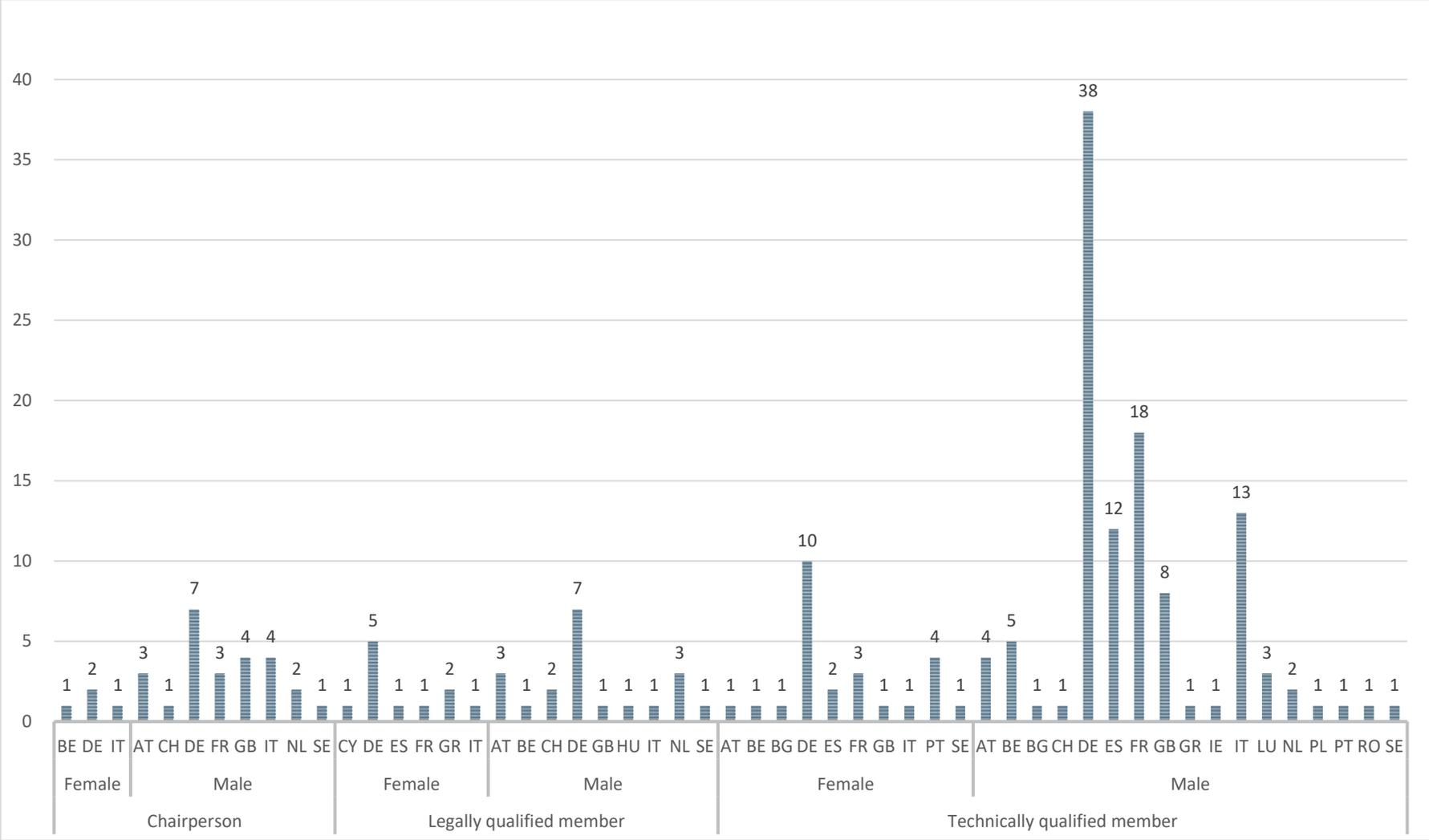


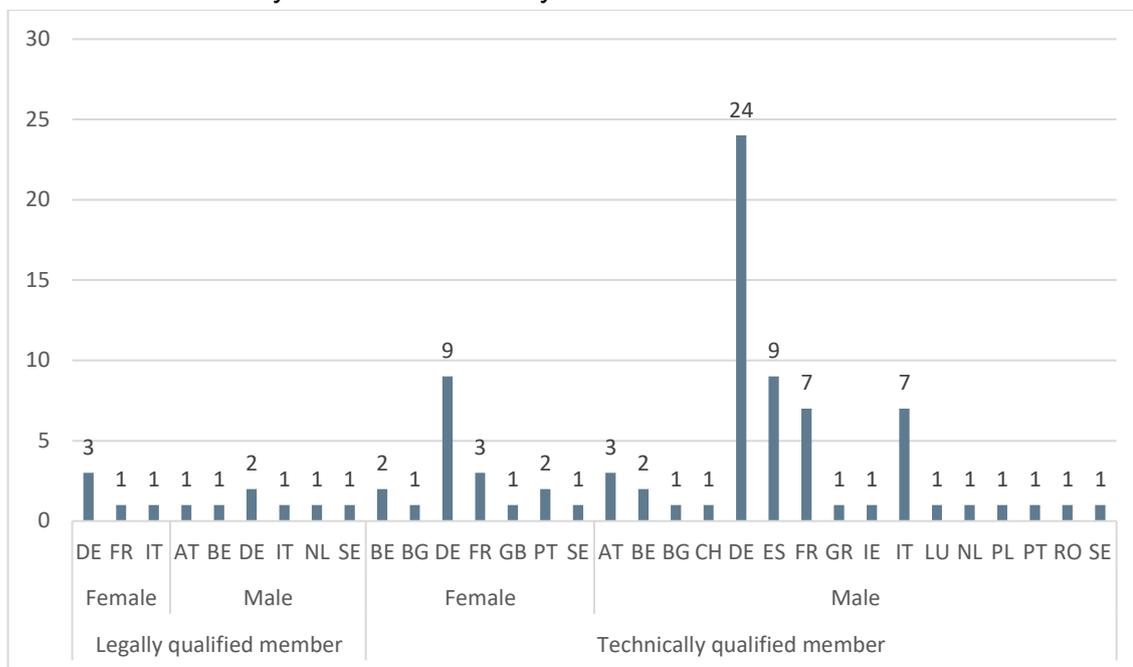
Figure 5  
 Gender and nationality distribution of chairs and members in 2021 (absolute numbers)



25. Since 2017, new staff have been recruited from 17 different member states, including Bulgaria, Luxembourg, Poland and Rumania. 26% of these newly recruited members were women.

Figure 6

Gender and nationality distribution of newly recruited members since 2017



#### IV. BOA DIVERSITY AND INCLUSION – VISION, MISSION AND STRATEGY 2022 - 2027

26. After conducting some research and benchmarking with comparable judiciaries and organisations and in alignment with the BoA's culture and strategic orientation, the D&I working party's first task was to define a vision and mission statement for the BoA with regard to diversity and inclusion. It is described below and is also available in the other official EPO languages.
27. D&I key message:  
 "As members of the Boards of Appeal, we support equality and inclusion at the workplace and promote diversity in all its forms."

28. D&I vision and mission statement:  
"The Boards of Appeal of the European Patent Office are an international judicial body consisting of more than 200 staff from all over Europe. Our work is shaped by a rich and unique mix of cultures, perspectives, personalities and experiences. We see this as one of our greatest strengths, and this is why we promote diversity and inclusion across all our boards and in all aspects of our work. The principles of impartiality, respect for diversity and inclusion – the essential foundations of a fair and independent judiciary – lie at the heart of who we are. They are both what we stand for and what we strive for. We encourage our staff to develop their individual strengths regardless of age, gender, origin, belief, sexual orientation, physical and cognitive ability or professional background. And together we are responsible for acknowledging, respecting and promoting diversity in all its forms."

The working party also completed a short, dedicated training session by an external facilitator to gain in-depth knowledge and a greater understanding of the topic of D&I. They also learned methods of elaborating identified areas and brainstormed on appropriate measures for improving these areas in the future. The outcome of this endeavour, based on the results of the D&I survey of the BoA, can be found in the next section, divided into six goals with proposed actions for each goal.

A. GOAL 1 – RAISE AWARENESS OF D&I IN THE BOA, INTERNALLY AND EXTERNALLY

29. It appears helpful to raise the overall awareness of D&I, both internally among BoA members and externally among third parties dealing with the Boards of Appeal. Some action points below reflect on how the BoA could achieve this goal.
- a) Action 1 – Awareness training on D&I for BoA staff
30. Awareness sessions should be offered to all BoA staff to convey a deeper understanding of diversity and inclusion. For example, awareness sessions on specific D&I topics presented by WG members or experts during a "BoA D&I Day" to all BoA staff or by individual presentations to a smaller audience (e.g. single boards).

31. The topic of bias will be included in all induction training for newcomers and in further training, as appropriate. This will encourage the development of a more inclusive and respectful culture and working environment within the BoA, and support the BoA in the social context, values and ethics of judging. Training should include best practice for engagement and effective communication with all manner of people from a variety of backgrounds with different capacities, needs and expectations, as well as the recognition of implicit bias and how to employ mitigation strategies.
- b) Action 2 – D&I issues on the intranet and internet
32. It is proposed to include dedicated D&I sections on the BoA's intranet and in the BoA web section of the EPO's homepage. These sections will include the vision and mission statements of the BoA, the strategy and measures, current initiatives as well as testimonials of "role models".
- c) Action 3 – Information sessions for DG1 staff
33. To increase the number of candidates from DG1 with a more diverse background, information sessions about the BoA in general, including their D&I vision, mission and activities could be piloted. If there is sufficient interest, these information sessions may also be held in other areas of the EPO or possibly even in external fora.
- d) Action 4 – Language
34. Future communications, whether issued within or outside the BoA, will be conscious of gender-inclusive language. The training sessions specified under Action 1 should also include this aspect to ensure that all BoA staff are informed. Furthermore, the EPO provides e-learning courses on gender inclusiveness in all three official languages, which should be promoted.
- B. GOAL 2 – GENDER
35. With regard to gender, female board members are under-represented on the BoA (2021: 20%), particularly concerning female chairs (2021: 14%). When it comes to support staff, the opposite can be observed, in other words, male support staff are under-represented (2021: 29%).

a) Action 1 – Recruitment

36. Fewer women tend to apply for technical member or chairperson posts, an average of just 19,4% and 8,7% respectively between 2017 and 2021. One measure shall be to review the text of the vacancy notices regarding gender. The same shall be applied to vacancy notices for support staff to attract more male applicants. References to "role model" testimonials may also help and shall be part of the recruitment campaigns.

b) Action 2 – Professional development

37. As recruitment will be less prominent in the coming years, professional development initiatives such as the creation of a mentorship programme and a network for women in the BoA will encourage women to become more visible and learn from each other's experiences.

c) Action 3 – Work-life balance

38. Staff with children often find it a challenge to juggle work obligations and childcare. Whilst part-time working from home and, since the pandemic started, teleworking have enabled more flexibility. Part-time working, in accordance with Art. 56 ServRegs under the Act of Delegation and regulated in Circular No. 34 for permanent employees of the EPO, is another element relevant in this context.

C. GOAL 3 – NATIONALITY AND ETHNICITY

39. The number of member states represented in the BoA is rather low compared to the EPO (BoA: 22, EPO: 35). Germany is particularly well represented, unlike smaller countries. Furthermore, there is little diversity in the ethnic background of BoA staff.

a) Action 1 – Involve other stakeholders

40. One important measure could be to invite user associations and judges in under-represented member states to give lectures in the BoA, attend their conferences or participate in judicial internships, for example.

b) Action 2 – Recruitment

41. Continuous improvement of publication practices of vacancy notices by the Human Resources department, through the various channels, ensuring that they reach under-represented member states.

42. Again, "role models" could be part of these initiatives.
- c) Action 3 – Events
43. Wherever possible, events and celebrations at the BoA should highlight the BoA's diversity, for example in terms of culinary aspects, songs, dances and so on.
- D. GOAL 4 – AGE
44. As already reflected under "Staff statistics", the average age of board members is 55 and of support staff 51. In this context it should be noted that in recent years, members were recruited that are ten to fifteen years younger than the average age.
- a) Action 1 – Communication on the age aspect
45. In terms of age, one key measure could be to communicate through various channels (lectures, conferences, annual reports etc.) that age is not a criterion. Colleagues could be inspired to act as role models and recount their "journey" when joining the BoA. Awareness of this aspect may also play a part in recruitment.
- b) Action 2 – Tutor pool
46. A tutor pool composed of experienced BoA staff could be created to support newcomers in terms of knowledge transfer and act as first point of contact when entering the BoA. This would encourage networking, exchange and knowledge transfer between the different age groups.
- E. GOAL 5 – PROFESSIONAL BACKGROUND/JOB FUNCTION
47. Due to the nature of the work, most technically qualified members are recruited internally. Legally qualified members are mostly recruited externally, with 63% being former judges and 30% joining from DG5.
48. There are also few possibilities for transversal work or networks, for example between BoA members and support staff. Overall, the feeling of a "corporate identity" could be strengthened in the BoA, even more so in the face of increased teleworking.

- a) Action 1 – Recruitment and job mobility
- 49. Recruitment methods could be evaluated on their ability to assess candidates' full potential, not only for the job concerned but also for future jobs or additional tasks. Furthermore, the BoA may provide more opportunities for job mobility, or where this is not possible due to the nature of the work, job enrichment. For example, existing functions such as spokesperson or participation in working groups or committees can help provide this enrichment and make use of available skills.
- b) Action 2 – Info sessions
- 50. To ensure more balance between internal and external applicants, info sessions shall be organised to better inform both groups about the possibilities in the BoA.
- c) Action 3 – Judicial internships
- 51. To attract external recruits, the one-month judicial internships at the BoA will be continued for national judges of the contracting states to the European Patent Convention – possibly even in a remote format.
- F. GOAL 6 – SEXUAL ORIENTATION/LGBTQ
- 52. In general awareness of LGBTQ in the workplace and related issues should be strengthened.
- a) Action 1 – D&I training and other events
- 53. As part of D&I awareness training, the topic of sexual orientation/LGBTQ should be included.
- b) Action 2 – Vision and mission of the BoA
- 54. It is underlined that the topic of sexual orientation/LGBTQ is encompassed by the BoA D&I vision and mission statement.

## V. TIMELINE AND IMPLEMENTATION

55. The D&I group should over the next 5 years gradually provide proposals for the implementation of these actions, depending on their scope and effort. It should, as appropriate, be supported by the BoA's Legal and Administrative services, under the direction of their respective Heads. Specific expert advice may, in coordination with the BoA services, also be sought from the Office.

## VI. COMMUNICATION PLAN

56.

<b>Audience</b>	<b>Key messages</b>	<b>Communication channel</b>
Employees	Diversity & inclusion strategy, programs, events, training, volunteering, success stories, key data on diversity progress, key days of significance	Intranet, internal training, newsletters, direct emails
Potential employees	Diversity & inclusion vision, specific objectives, employee reference groups, awards/recognition, policies, PBoA commitment, testimonials	Web section, vacancy notes with D&I statement, external publications, part of lectures.
Stakeholders	Diversity & inclusion vision, awards/recognition, data on diversity progress	BOAC, Administrative Council, Annual report, in general lectures about the BoA on conferences and meetings

**VII. EVALUATION METHODOLOGY**

- 57. The effectiveness and achievement of our goals with regard to diversity and inclusion will be reviewed and reported on a yearly basis by the D&I group. The report will be submitted to the PBoA. The review will focus on the implementation of the actions, the progress made and successes. It will also identify any adjustments required to improve effectiveness.
- 58. The evaluation should include an impact assessment of the strategy.
- 59. The outcome of the evaluation and review will guide the development of further action plans.

**VIII. ALTERNATIVES**

- 60. Not applicable.

**IX. FINANCIAL IMPLICATIONS**

- 61. No major financial implications.

**X. DOCUMENTS CITED**

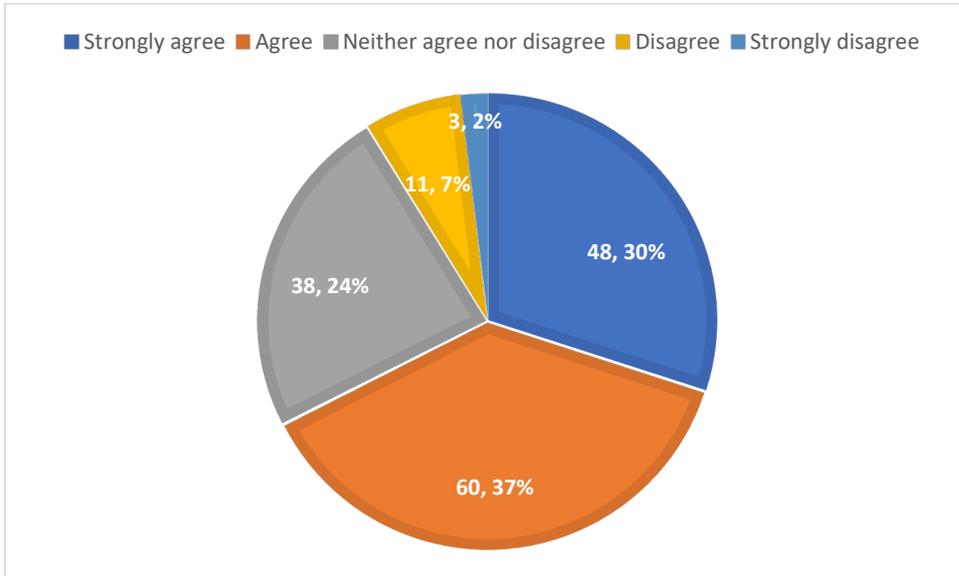
- 62. Not applicable.

**XI. RECOMMENDATION FOR PUBLICATION**

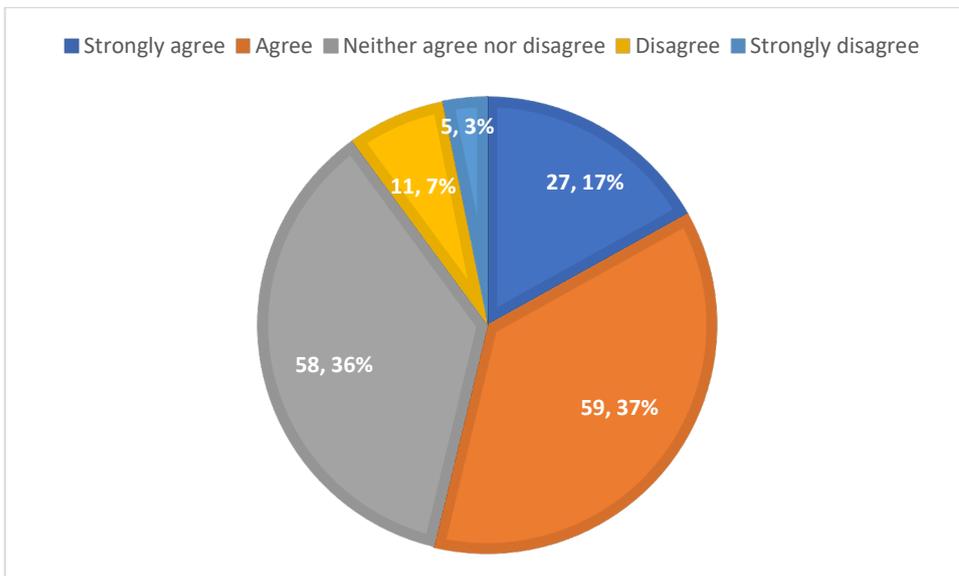
- 63. No.

ANNEX 1 RESULTS OF THE BOA D&I SURVEY 2021

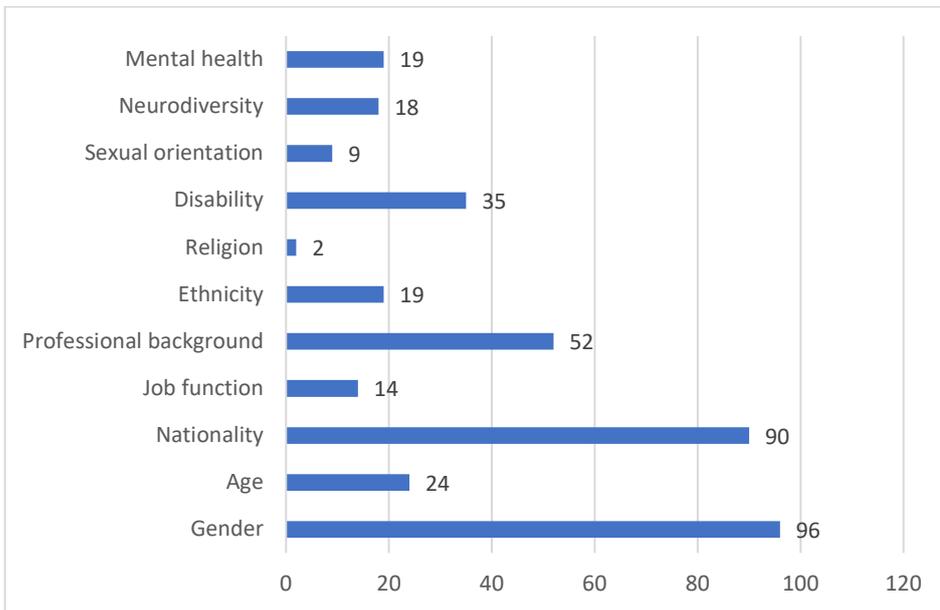
64. Question 1:  
As an international judiciary, the BoA are committed to achieving a fair balance of diverse backgrounds at all levels. (number of respondents, percentage)



65. Question 2:  
The environment in the BoA should be more inclusive. (number of respondents, percentage)



66. Question 3:  
Which aspects of diversity are the most important for the BoA and therefore need to be addressed as priority matters (maximum of three answers)?



67. Question 4:  
In which area do you think the BoA need to be more inclusive (maximum of three answers)?

