



Designation of Members / Tasks of Rapporteur (Article 1(3) RPBA)

§ Chair of each board shall determine board composition for each particular appeal

§ Distinction between **chair of the board** and **chair of the particular appeal**

- Chair shall designate him- or herself or another technically or legally qualified member as the chair in the particular appeal

Designation of Members / Tasks of Rapporteur (2) (Article 5 RPBA)

- § Chair may **designate rapporteur first** and only later other board members
- § Rapporteur shall assess appeal for **priority** over / **treatment together with** other appeals (possible prior to designation of other members)
- § Rapporteur shall draft communications, make preparations for oral proceedings and draft decisions (only after designation of all members)

Published List of Cases (Article 1(2) RPBA)

- § Before beginning of each working year, list of cases will be published in which each board is likely
- to hold oral proceedings
 - issue a communication under Rule 100(2) EPC or
 - issue a written decision in that year

Consolidation of Appeal Proceedings (Article 10(2) RPBA)

§ If appeals are filed from separate decisions but are clearly connected to each other and if they are to be examined by a board in the same composition, that board shall endeavour to deal with them one immediately after the other. The board may, after having heard the parties, also deal with such appeals in consolidated proceedings

Acceleration of Appeal Proceedings (Article 10(3) to (6) RPBA)

§ Acceleration possible on request. Request shall contain reasons justifying the acceleration and shall, where appropriate, be supported by documentary evidence. The board shall inform the parties whether the request has been granted (Article 10(3) RPBA)

Examples of reasons

- Infringement proceedings
- Decision of potential licensees of the patent hinges on outcome of appeal

Acceleration of Appeal Proceedings (2) (Article 10(3) to (6) RPBA)

§ If a court or other competent authority in a contracting state requests acceleration of the appeal proceedings, the board shall inform the court or authority and the parties whether the request has been granted and, if so, when oral proceedings are likely to take place (Article 10(4) RPBA)

§ The board may accelerate the appeal proceedings of its own motion (Article 10(5) RPBA)

Acceleration of Appeal Proceedings (3) (Article 10(3) to (6) RPBA)

§ If the board accelerates the appeal proceedings, it shall give the appeal priority over other appeals. The board may adopt a strict framework for the proceedings (Article 10(6) RPBA)

Case Management Before Oral Proceedings (Article 15(1) RPBA)

- § Generally **issuance of summons** at least **four months** before date of oral proceedings
- § Obligatory **communication** drawing attention to matters that seem to be of particular significance for the decision to be taken
- § Board may also provide a **preliminary opinion**
- § Generally **issuance of communication** at least **four months** before date of oral proceedings

Changing the Date of Oral Proceedings (Article 15(2) RPBA)

- § Serious reasons justifying fixing of new date needed
- § Serious reasons must relate to representative (if appointed)
- § Request shall be
 - filed in writing
 - reasoned + supported by evidence (where appropriate)
 - filed as soon as possible after issuance of summons and occurrence of serious reason

Changing the Date of Oral Proceedings (2) (Article 15(2) RPBA)

§ NEW: The request should include a list of dates on which the requesting party is not available for oral proceedings

Changing the Date of Oral Proceedings (3) (Article 15(2) RPBA)

§ Serious reasons:

- earlier notification of a summons to other oral proceedings
- serious illness
- death within the family
- marriage or formation of a similar recognised partnership
- military service or other obligatory performance of civil duties
- holidays or business trips which have been firmly booked before notification of the summons to oral proceedings

Changing the Date of Oral Proceedings (4) (Article 15(2) RPBA)

§ Non-serious reasons (“as a rule”):

- filing of new requests, facts, evidence or arguments
- excessive work pressure
- unavailability of a duly represented party
- unavailability of an accompanying person
- appointment of a new professional representative

Changing the Date of Oral Proceedings (5) (Article 15(2) RPBA)

§ NEW: Obligation to state in the request why another representative cannot stand in for the one prevented from attending has been dispensed with

Remittal (Article 11 RPBA)

§ Board shall **not remit** a case to first instance for further prosecution, **unless special reasons** present themselves for doing so. As a rule, fundamental deficiencies which are apparent in the first-instance proceedings constitute such special reasons

Abridged Decisions (Article 15(7) RPBA)

§ Abridged written decision after decision in oral proceedings

§ Precondition:

- explicit consent of the parties
- no indication that third party or court has, in the particular case, a legitimate interest in decision not being abridged

§ Reasons for the decision in abridged form may already be included in minutes

Abridged Decisions (Article 15(8) RPBA)

§ Abridged written decision if board agrees with one or more issues in appealed decision

§ Not limited to decisions announced in oral proceedings

§ No consent of parties needed

§ If new submissions in grounds of appeal, board will normally address them

Case Management After Oral Proceedings (Article 15(9) RPBA)

§ After decision in oral proceedings, **written decision** will be despatched **within three months** of date of oral proceedings

§ If deadline not met, parties will be informed when decision is to be despatched + President of the Boards of Appeal will be informed

Case Management After Oral Proceedings (2) (Article 15(9) RPBA)

§ If case ready for decision in oral proceedings but no decision announced, date of despatch of decision will be indicated and shall not be later than three months after closure of oral proceedings

§ If deadline not met, parties will be informed when decision is to be despatched or communication will be issued specifying the further procedural steps