

CA/100/00 Add. 3

Orig.: German

Munich, 06.10.2000

SUBJECT: Basic Proposal for the revision of the European Patent Convention

DRAWN UP BY: President of the European Patent Office

ADDRESSEES: 1. Committee on Patent Law (for opinion)
2. Administrative Council (for opinion)

SUMMARY

The attached document MR/2/00 Add. 1, supplementing the Basic Proposal in MR/2/00 as approved by the Administrative Council, will be presented to the EPC Revision Conference. It shows the incidental amendments arising from the Basic Proposal which were not yet contained in CA/100/00, Part I.

Any comments should be sent to the Council Secretariat by 9 October 2000.

MR/2/00 Add. 1

Orig.: German

Munich,

SUBJECT: Revision of the European Patent Convention

DRAWN UP BY: Administrative Council

ADDRESSEES: Conference for the revision of the EPC (for discussion)

SUMMARY

This document contains incidental amendments, arising from the Basic Proposal in MR/2/00 as approved by the Administrative Council, which were not yet contained in CA/100/00, Part I.

ADDITIONAL AMENDMENTS ARISING FROM THE BASIC PROPOSAL (MR/2/00)

Explanatory notes

1. The Basic Proposal for the revision of the European Patent Convention as contained in document MR/2/00, necessitates a number of further changes in other EPC articles. Some changes are to adapt certain articles to the new wording of individual provisions; others concern references to other provisions.
2. **Article 70(2) EPC** (adapted to accord with Article 14(2) EPC of the Basic Proposal)

The amendments to Article 14(2) EPC necessitate a **clarification** in Article 70(2) EPC. At the same time, the opportunity has been taken to rectify the scope of the provision: if a European patent application is filed in a language which is not an official language of the European Office, that text is - as hitherto - the European patent application **as filed**, not only for the purpose designated in the current version of Article 70(2), but also for the purposes of Articles 54(3), 61(1)(b) and (2), 76(1), 100(c), 123(2) and 138(1)(c) EPC.

Present wording

Article 70

Authentic text of a European patent
application or European patent

(1) The text of a European patent application or a European patent in the language of the proceedings shall be the authentic text in any proceedings before the European Patent Office and in any Contracting State.

(2) However, in the case referred to in Article 14, paragraph 2, the original text shall, in proceedings before the European Patent Office, constitute the basis for determining whether the subject-matter of the application or patent extends beyond the content of the application as filed.

(3)-(4) *Unchanged*

Revised wording

Article 70

Authentic text of a European patent
application or European patent

(1) *Unchanged*

(2) **If, however, the European patent application has been filed in a language which is not an official language of the European Patent Office, that text shall be the application as filed within the meaning of this Convention.**

(3)-(4) *Unchanged*

3. The articles in which the reference to another provision of the EPC has to be **amended** or **deleted** as a result of the Basic Proposal are as follows:

Article 54(3) EPC (adapted to accord with Articles 69(2) and 54(4) EPC of the Basic Proposal)

Article 60(2) EPC (adapted to accord with Article 69(2) of the Basic Proposal and the deletion of 54(4) EPC)

Article 67(1) EPC (adapted to accord with Article 69(2) EPC of the Basic Proposal)

Article 137(1) EPC

Article 140 EPC

Article 141(1) EPC

Present wording

Article 54
Novelty

(1)-(2) *Unchanged*

(3) Additionally, the content of European patent applications as filed, of which the dates of filing are prior to the date referred to in paragraph 2 and which were published under Article 93 on or after that date, shall be considered as comprised in the state of the art.

Article 60
Right to a European patent

(1) *Unchanged*

(2) If two or more persons have made an invention independently of each other, the right to the European patent shall belong to the person whose European patent application has the earliest date of filing; however, this provision shall apply only if this first application has been published under Article 93 and shall only have effect in respect of the Contracting States designated in that application as published.

(3) *Unchanged*

Revised wording

Article 54
Novelty

(1)-(2) *Unchanged*

(3) Additionally, the content of European patent applications as filed, of which the dates of filing are prior to the date referred to in paragraph 2 and which were published [...] on or after that date, shall be considered as comprised in the state of the art.

Article 60
Right to a European patent

(1) *Unchanged*

(2) If two or more persons have made an invention independently of each other, the right to the European patent shall belong to the person whose European patent application has the earliest date of filing; however, this provision shall apply only if this first application has been published [...].

(3) *Unchanged*

Present wording**Article 67**

Rights conferred by a European patent application after publication

(1) A European patent application shall, from the date of its publication under Article 93, provisionally confer upon the applicant such protection as is conferred by Article 64, in the Contracting States designated in the application as published.

(2)-(4) *Unchanged*

Article 137

Formal requirements for conversion

(1) A European patent application transmitted in accordance with Article 136 shall not be subjected to formal requirements of national law which are different from or additional to those provided for in this Convention.

(2) *Unchanged*

Article 140

National utility models and utility certificates

Article 66, Article 124, Articles 135 to 137 and Article 139 shall apply to utility models and utility certificates and to applications for utility models and utility certificates registered or deposited in the Contracting States whose laws make provision for such models or certificates.

Article 141

Renewal fees for European patents

(1) Renewal fees in respect of a European patent may only be imposed for the years which follow that referred to in Article 86, paragraph 4.

(2) *Unchanged*

Revised wording**Article 67**

Rights conferred by a European patent application after publication

(1) A European patent application shall, from the date of its publication [...], provisionally confer upon the applicant such protection as is conferred by Article 64, in the Contracting States designated in the application [...].

(2)-(4) *Unchanged*

Article 137

Formal requirements for conversion

(1) A European patent application transmitted in accordance with Article **135, paragraph 2 or 3**, shall not be subjected to formal requirements of national law which are different from or additional to those provided for in this Convention.

(2) *Unchanged*

Article 140

National utility models and utility certificates

Article 66, 124, 135 [...], 137 and 139 shall apply to utility models and utility certificates and to applications for utility models and utility certificates registered or deposited in the Contracting States whose laws make provision for such models or certificates.

Article 141

Renewal fees for European patents

(1) Renewal fees in respect of a European patent may only be imposed for the years which follow that referred to in Article 86, paragraph **2**.

(2) *Unchanged*