

# Decision of the Administrative Council of 5 December 1996 amending the European Patent Convention and its Implementing Regulations

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention (EPC), and in particular Article 33(1)(a) and (b) thereof,

On a proposal from the President of the European Patent Office,

Having regard to the opinion of the Committee on Patent Law and the Budget and Finance Committee,

HAS DECIDED AS FOLLOWS: \*

## **Article 1**

1. Article 79(2) EPC shall be amended to read as follows:

"(2) The designation of a contracting state shall be subject to the payment of the designation fee. The designation fees shall be paid within six months of the date on which the European Patent Bulletin mentions the publication of the European search report."

2. The Implementing Regulations to the EPC shall be amended as follows:

2.1 The following new Rule 23a shall be added to Part II under a new Chapter V entitled "Prior European applications":

"Rule 23a  
Prior application as state of the art

A European patent application shall be considered as comprised in the state of the art under Article 54, paragraphs 3 and 4, only if the designation fees under Article 79, paragraph 2, have been validly paid."

2.2 The following new paragraph 8a shall be added to Rule 51:

"(8a) If the designation fees become due after the invitation referred to in paragraph 6 has been notified, the mention of the grant of the European patent shall not be published until the designation fees have been paid. The applicant shall be notified accordingly."

## **Article 2**

Article 79(2) EPC as amended shall apply to all European patent applications in respect of which, on 1 July 1997, the designation fees have not been validly paid and the time limit under Article 79, paragraph 2, EPC for paying them has not expired.

## **Article 3**

This decision shall enter into force on 1 July 1997.

Done at Munich, 5 December 1996

For the Administrative Council  
The Chairman

*Julián ÁLVAREZ ÁLVAREZ*

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\* More information about the 1997 fee reform is published on page 79.