

Decision of the Administrative Council of 18 October 2001 amending the Implementing Regulations to the EPC: CA/D 26/01 (Rules 10 and 11 EPC)

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention (EPC), and in particular [Article 33 paragraph 1\(b\)](#), thereof,

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

Having regard to the opinion of the Committee on Patent Law,

HAS DECIDED AS FOLLOWS:

Article 1

Rule 10 EPC shall be amended to read as follows:

"Rule 10

Presidium of the Boards of Appeal

1. The autonomous authority within the organisational unit comprising the Boards of Appeal (the "Presidium of the Boards of Appeal") shall consist of the Vice-President in charge of the Boards of Appeal, who shall act as chairman, and twelve members of the Boards of Appeal, six being Chairmen and six being other members.
2. All members of the Presidium shall be elected by the Chairmen and members of the Boards of Appeal for one working year. If the full composition of the Presidium cannot be reached, the vacancies shall be filled by designating the most senior Chairmen and members.
3. The Presidium shall adopt the Rules of Procedure of the Boards of Appeal and the Rules of Procedure for the election and designation of its members. The Presidium shall further advise the Vice-President in charge of the Boards of Appeal with regard to matters concerning the functioning of the Boards of Appeal in general.
4. Before the beginning of each working year the Presidium, extended to include all Chairmen, shall allocate duties to the Boards of Appeal. In the same composition, it shall decide on conflicts regarding the allocation of duties between two or more Boards of Appeal. The extended Presidium shall designate the regular and alternate members of the various Boards of Appeal. Any member of a Board of Appeal may be designated as a member of more than one Board of Appeal. These measures may, where necessary, be amended during the course of the working year in question.
5. The Presidium may only take a decision if at least five of its members are present; these must include the Vice-President in charge of the Boards of Appeal or his deputy, and the Chairmen of two Boards of Appeal. Where the tasks mentioned in paragraph 4 are concerned, nine members must be present, including the Vice-President in charge of the Boards of Appeal or his deputy, and the Chairmen of three Boards of Appeal. Decisions shall be taken by a majority vote; in the event

of parity of votes, the Chairman or his deputy shall have the casting vote. Abstentions shall not be considered as votes.

6. The Administrative Council may allocate duties under Article 134, paragraph 8(c), to the Boards of Appeal."

Article 2

Rule 11 EPC shall be amended to read as follows:

"Rule 11

Business distribution scheme for the Enlarged Board of Appeal
and adoption of its Rules of Procedure

1. Before the beginning of each working year, the members of the Enlarged Board of Appeal who have not been appointed under Article 160, paragraph 2, shall designate the regular and alternate members of the Enlarged Board of Appeal.
2. The members of the Enlarged Board of Appeal who have not been appointed under Article 160, paragraph 2, shall adopt the Rules of Procedure of the Enlarged Board of Appeal.
3. Decisions on matters mentioned in paragraphs 1 and 2 may only be taken if at least five members are present, including the Chairman of the Enlarged Board of Appeal or his deputy; in the event of parity of votes, the Chairman or his deputy shall have the casting vote. Abstentions shall not be considered as votes."

Article 3

1. The amendments to Rules 10 and 11 EPC shall enter into force on 2 January 2002.
2. The Rules of Procedure for the first election of the Presidium in its composition according to amended Rule 10 EPC are to be adopted by the Presidium in its composition according to Rule 10, paragraph 2, EPC as in force up to 1 January 2002.
3. For the working year 2002, Rule 10, paragraph 2, EPC as in force up to 1 January 2002 shall apply for the allocation of duties to the Boards of Appeal and the designation of the regular and alternate members of the various Boards of Appeal and the Enlarged Board of Appeal.

Article 4

This decision shall enter into force on 18 October 2001.

Done at Munich, 18 October 2001

For the Administrative Council
The Chairman

Roland GROSSENBACHER