Article 31 E

Travaux Préparatoires (EPC 1973)

Comment:
The collection represents purely an internal research tool for the purpose of Directorate Patent Law of the European Patent Office. No guarantee can be given for its completeness or correctness. The documents produced before 1969 cannot be provided in English as this was not an official language in the period before that date. These documents therefore are provided in French and German.
Art. 31
MPÜ
Sprachen des Verwaltungsrats

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Dokumente der MDK

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MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 30 September 1973
M/146/R 2
Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee
Subject: Convention: Articles 27 to 54
Article 29
Languages of the Administrative Council

(1) Only concerns German text

(2) Unchanged from 1972 published text
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 19 September 1973

M/108/II/R 4
Original: English/French/German

TEXTS DRAWN UP BY
THE DRAFTING COMMITTEE OF MAIN COMMITTEE II
AT THE MEETING ON 18 SEPTEMBER 1973

Articles of the Convention:

Article 13
17
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Protocol on Privileges and Immunities of the European Patent Organisation:

Article 22
Artikel 28

Teilnahme von Beobachtern


(3) Andere zwischenstaatliche Organisationen, die mit der Durchführung internationaler patentrechtlicher Verfahren beauftragt sind und mit denen die Organisation ein Abkommen geschlossen hat, sind, wenn dieses Abkommen entsprechende Vorschriften enthält, nach Maßgabe dieser Vorschriften ebenfalls auf den Tagungen des Verwaltungsrats vertreten.

(4) Alle anderen zwischenstaatlichen Organisationen, die eine die Organisation betreffende Tätigkeit ausüben, können vom Verwaltungsrat eingeladen werden, sich auf seinen Tagungen bei der Erörterung von Fragen, die von gemeinsamem Interesse sind, vertreten zu lassen.

Artikel 29

Sprachen des Verwaltungsrats

(1) Der Verwaltungsrat bedient sich der deutschen, englischen und französischen Sprache.

(2) Die dem Verwaltungsrat unterbreiteten Dokumente und die Protokolle über seine Beratungen werden in den drei in Absatz 1 genannten Sprachen erstellt.

Artikel 30

Personal, Arbeitsräume und Mittel

Das Europäische Patentamt stellt dem Verwaltungsrat sowie dem vom Verwaltungsrat eingesetzten Ausschüssen das Personal, die Arbeitsräume und die materiellen Mittel zur Verfügung, die sie zur Durchführung ihrer Aufgaben benötigen.

Artikel 31

Befugnisse des Verwaltungsrats in bestimmten Fällen

(1) Der Verwaltungsrat ist befugt, folgende Vorschriften zu ändern:

Artikel 28

Attendance of observers

(1) The International Patent Institute shall be represented at the meetings of the Administrative Council, in accordance with the provisions contained in the Agreement concluded with the Organisation laying down the procedure for the collaboration of the International Patent Institute with the European Patent Office.

(2) The World Intellectual Property Organization shall be represented at the meetings of the Administrative Council, in accordance with the provisions of an agreement to be concluded between the European Patent Organisation and the World Intellectual Property Organization.

(3) Any other inter-governmental organisation charged with the implementation of international procedures in the field of patents with which the Organisation has concluded an agreement shall be represented at the meetings of the Administrative Council, in accordance with any provisions contained in such agreement.

(4) Any other inter-governmental organisation exercising an activity of interest to the Organisation may be invited by the Administrative Council to arrange to be represented at its meetings during any discussion of matters of mutual interest.

Artikel 29

Languages of the Administrative Council

(1) The languages in use in the deliberations of the Administrative Council shall be English, French and German.

(2) Documents submitted to the Administrative Council, and the minutes of its deliberations, shall be drawn up in the three languages mentioned in paragraph 1.

Artikel 30

Staff, premises and equipment

The European Patent Office shall place at the disposal of the Administrative Council and any body established by it such staff, premises and equipment as may be necessary for the performance of their duties.

Artikel 31

Competence of the Administrative Council in certain cases

(1) The Administrative Council shall be competent to amend the following provisions of this Convention:
MÜNCHNER DIPLOMatische konferenz
Über die Einführung eines Europäischen Patentrechtverfahrens 1973
(München, 10. September bis 6. Oktober 1973)

MUNICH DIPLOMATIC CONFERENCE
For the Setting up of a European System
For the Grant of Patents, 1973
(Munich, 10 September to 6 October 1973)

CONFERENCE DIPLOMATIQUE DE MUNICH
Pour l'institution d'un Système Européen
de Délivrance de Brevets
(1973)
(Munich, 10 septembre - 6 octobre 1973)

VORBEREITENDE DOKUMENTE
ausgearbeitet von der
Regierungskonferenz über die Einführung eines europäischen Patentrechtverfahrens
herausgegeben von der
Regierung der Bundesrepublik Deutschland

PREPARATORY DOCUMENTS
drawn up by the
Inter-Governmental Conference for the setting up of a European System for the Grant of Patents
and published by the
Government of the Federal Republic of Germany

DOCUMENTS PRÉPARATOIRES
élaborés par la
Conférence intergouvernementale pour l'institution d'un système européen de délivrance de brevets
et publiés par le
Gouvernement de la République fédérale d'Allemagne

1972
26. With regard to acquired rights, the Working Party adopted a provision similar to that safeguarding acquired rights in the event of a revised text of the Convention not being ratified, as it felt that the problems were very similar (see Article b).

Article k - Languages

27. The text of paragraph 2 is derived from the text of Article 67 of the PCT.

Article 1 - Transmission of certified true copies

28. The Working Party felt that it would be premature to provide for the transmission of certified true copies of the Implementing Regulation at the same time as true copies of the Convention. It was acknowledged that it was not yet known whether these Implementing Regulations would have the status of a diplomatic document. Where appropriate, the provisions of Article 1 would have to be completed on the basis of decisions subsequently taken on this matter at the Conference.

III

MAIN OBSERVATIONS ON THE PROTOCOL ON PRIVILEGES AND IMMUNITIES

A. General Remarks

29. It was pointed out that the retention or deletion of certain provisions would depend on the status of the Protocol in relation to the Convention. The Working Party wondered whether provision should be...
insurmountable obstacle, as the Statutes of the Court authorised it to call in experts.

The Working Party did not feel that it could adopt this proposal. It considered that the technical nature of the disputes would make arbitration procedure preferable, especially as the number of disputes would probably be too small to allow the International Court of Justice to become really specialised in this respect. It also pointed out that there was nothing to prevent a Judge of this Court being appointed as arbitrator for disputes which did not involve technical matters.

The Swiss delegation reserved the right, however, to raise this question in the Conference itself.

**Article h - Limitation of reservations**

22. The Working Party did not wish to allow the possibility for reservations to be made other than in the cases explicitly provided for in the Convention.

**Article i - Duration of the Convention**

23. The Working Party felt it expedient to state formally that the purpose of the Convention was to set up a permanent system.

**Article j - Denunciation**

24. The Working Party decided to choose the date of deposit of the instrument of denunciation as marking the beginning of the period on the expiry of which a denunciation should take effect, by analogy with the provisions on the coming into effect of ratification and accession.

25. The Working Party also agreed to specify that where a State which had denounced the Convention ceased to be party thereto pursuant to Article a, paragraph 4(b) before the expiry of the period laid down for denunciation to take effect, the Convention would immediately cease to be applicable to that State.
MINUTES
of the Meeting of Working Party II
(Luxembourg, 1-4 September 1970 - 2nd meeting)

I

1. The second meeting of Working Party II was held at Luxembourg, from Tuesday 1 to Friday 4 September 1970, under the Chairmanship of Mr. R. LABRY, Counsellor at the Ministry of Foreign Affairs (France).

The Commission of the European Communities and the International Patent Institute attended the meeting as observers. (1).

2. The Working Party would draw attention to the provisional nature of the wording of the texts it adopted.

Bearing in mind the timetable laid down for the meetings of the other Working Parties, the outcome of which might lead the Working Party to revise some of the provisions which it had previously adopted, in particular those relating to the Administrative Council,.../...

(1) The list of those attending the meeting is given in the Annex.
However, the Working Party did not rule out that the Administrative Council could — by way of a gentleman's agreement, for example, — allow, in exceptional cases and in so far as necessary, another language to be used in any particular discussion, provided that the State whose representative used such another language bore the financial consequences of interpretation from that language into the three languages mentioned in paragraph 1.

**Article k — Voting rights**

27. No comment.

**Article l — Select Committees of the Administrative Council**

28. The Working Party believed that certain links should be organised between the Administrative Council and a Select Committee, in particular in order to determine the proportion of the expenses of the European Patent Office which will fall exclusively upon the group of States linked by a special agreement.

In so far as these matters touch upon fields falling under the work of Working Party IV, they should, where appropriate, be studied together with the latter.

**Article m — Voting Rules**

29. The Working Party did not believe it necessary to fix a standard quorum for the deliberations of the Council.

30. The Working Party discussed a proposal whereby the Rules relating to fees could only be adopted or amended by unanimous vote. It agreed that such a requirement would make any increase in these fees too difficult, which
Article g - Board of the Administrative Council

23. In the intervals between meetings of the Council, which in principle will only take place once a year (cf. Article h), and in view also of the importance of the functions of the Council, the President should, in the opinion of the Working Party, carry out certain duties, in doing which he would be assisted by a Board. The composition of this Board is dealt with in Article g. The terms under which the Board will assist the President of the Council will be laid down by the Rules of Procedure of the Board.

Article h - Meetings of the Administrative Council

24. The Working Party believed that the provisions of this Article were of sufficient importance for them to be incorporated in the provisions of the Convention dealing with the proceedings of the Council.

Article i - Rules of Procedure

25. The Working Party did not discuss the contents of the Rules of Procedure. It restricted itself to noting that these Rules should include a provision whereby the decisions taken by the Council would state the date of their entry into force.

Article j - Languages

26. In paragraph 1, the Working Party adopted a provision similar to that of Article 34 (1) of the Draft Convention. For reasons of efficiency, it did not seem possible to the Working Party to extend the number of languages which may be used in the deliberations of the Administrative Council.
MINUTES
of the meeting of Working Party II
(Luxembourg, 4–6 March 1970)

I

1. The first working meeting of Working Party II, set up by the Conference at the latter's meeting of 13-16 January 1970, was held at Luxembourg from Wednesday 4 to Friday 6 March 1970.

In accordance with the decision taken by the Working Party at its inaugural meeting held at Luxembourg on 16 January 1970, the Chair was taken by Mr. Labry, Counsellor at the Ministry of Foreign Affairs (France).

The Commission of the European Communities, BIRPI and the International Patent Institute (IIB) took part in the meeting as observers. The representative of the General Secretariat of the Council of Europe, who had also been invited to take part in the meeting, apologized for being unable to attend (1).

(1) See list of participants in the meeting of the Working Party given in Annex II. As regards Annex I, see point 38 on page 16.
Article 1
Languages

(1) The languages in use in the deliberations of the Administrative Council shall be English, French and German.

(2) Documents submitted to the Council, and the minutes of its deliberations, shall be drawn up in the three languages mentioned in paragraph 1.
INTER-GOVERNMENTAL CONFERENCE
FOR THE SETTING UP OF A EUROPEAN
SYSTEM FOR THE GRANT OF PATENTS

Brussels, 13 March 1970
BR/33/70

- Secretariat -

FIRST PRELIMINARY DRAFT CONVENTION
ESTABLISHING A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

Provisions relating to the Administrative Council
Text drawn up by Working Party II

(4 to 6 March 1970)

BR/33 e/70 mrk
Article 31
Languages of the Administrative Council

(1) The languages in use in the deliberations of the Administrative Council shall be English, French and German.

(2) Documents submitted to the Administrative Council, and the minutes of its deliberations, shall be drawn up in the three languages mentioned in paragraph 1.