Rule 67 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.
Regel 67
MPÜ
Rückzahlung der Beschwerdegebühr

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ANNEX I

REPORT

by Mr. Paul Braendli, Lic. iur.
Vice-Director of the Federal Intellectual Property Office (Switzerland)

on the results of Main Committee I's proceedings

ANNEX II

REPORT

by Mr. R. Bowen
Assistant Comptroller, British Patent Office

on the results of Main Committee II's proceedings

ANNEX III

REPORT

by Mr. Fressonnet
Deputy Director of the Institut National de la Propriété Industrielle (France)

on the results of Main Committee III's proceedings

ANNEX IV

REPORT

by Mr. A. Fernandez Mazarambroz
Head of the Spanish Patent Office

on the results of the Credentials Committee's proceedings
with regard to full powers for signing the Convention
Committee to examine Rules 57 and 66 with a view to achieving more uniformity.

**Rule 67 (66) — Examination of appeals**

2300. The Committee considered the Norwegian delegation's proposal, as given in M/71, page 6, that a provision be added to paragraph 3g) to the effect that if the Appeal Board's decision were not unanimous, the names of the members of the Board who did not support the majority and the reasons for their position should be disclosed in the decision.

2301. The Norwegian delegation said that such a provision would correspond to legal practice in Nordic countries.

2302. The Finnish and Swedish delegations supported the Norwegian delegation's proposal.

2303. The Swiss delegation said that it could not accept this proposal; it was not in accordance with Swiss legal principles which required collective decisions. Once a result was achieved, everything which had led to it ceased to be of any consequence. The Swiss delegation also stated its opposition to the disclosure of the names of the dissenting members. It was concerned that if the names of those members who did not subscribe to the majority view were to be disclosed in the decision, there would be far fewer majority decisions, as certain members would be reluctant to be included with the minority.

2304. The delegations of the Federal Republic of Germany, the Netherlands and Yugoslavia supported the view of the Swiss delegation.

2305. By a majority of eight to five, with two abstentions, the Committee rejected the Norwegian delegation's proposal.

2306. The Swiss delegation wished to put a question concerning paragraph 2 of this Rule. It wondered why the Board of Appeal should be required to approach an Examining Division for further information concerning the state of the art, and it also wondered whether, bearing in mind Main Committee II's deliberations, the reference made here should not be to a Search Division rather than to an Examining Division.

2307. The Chairman wondered whether, in view of Main Committee II's decisions, this provision still had any purpose.

2308. The delegation of the Federal Republic of Germany said that the purpose of this provision was to indicate clearly that an Examining Division could also be requested to provide further information concerning the state of the art. In this way, this provision was a means of accelerating the procedure in that it enabled the Board of Appeal to approach an Examining Division directly rather than have to follow the more complex procedure of requesting an additional report on the state of the art from the International Patent Institute.

2309. The Netherlands delegation thought that this paragraph should be worded in more general terms, so that no possibility was excluded: it might in fact be useful if the Board of Appeal could approach either an Examining Division or a Search Division.

2310. The Chairman did not think it necessary to expand paragraph 2, in view of the wording of Article 124, which provided that the European Patent Office could request an additional European search report at any time. Accordingly, the only point still at issue seemed to be whether to delete paragraph 2 or retain it in its present form with the consequence that Boards of Appeal would be authorised to request two different types of search report, one from the Directorate General for Searching and the other from the Examining Division.

2311. The UNEPA delegation requested clarification as to who should pay for this additional search.

2312. The Chairman said that the European Patent Office would pay for this additional report, and not the applicant.

2313. The CCI delegation expressed concern that in its present form, this provision might be worded too vaguely. It was important to avoid any possibility of an interpretation which would authorise a Board of Appeal to request an Examining Division to give its views on the state of the art as described in the search report or in an additional report, after all parties to the proceedings had indicated their positions. This would be tantamount to the Board of Appeal requesting the opinion of a subordinate body on a case under consideration by the Board of Appeal itself.

2314. The Chairman pointed out that it was certainly not the intention of the authors of Rule 67, paragraph 2, that an Examining Division should be called upon to express opinions on technical or legal problems. Paragraph 2 was merely intended to accelerate the procedure by making it possible to obtain information concerning, for example, certain details of the international classification.

2315. The French delegation considered that it might be advisable for paragraph 2 to refer to the possibility of requesting additional information, not only from Examining Divisions, but also from Search Divisions.

2316. The Committee recorded its agreement to the French delegation's suggestion that the Search Division also be mentioned in paragraph 2.

2316a. At a subsequent meeting, the Main Committee deleted paragraph 2 further to the deletion of Article 124 (see point 659).

**Rule 68 (67) — Reimbursement of appeal fees**

2317. The Swiss delegation wondered whether this Rule should not be amended to stipulate that the reimbursement of appeal fees would be made in any case in the event of interlocutory revision, and that a substantial breach of procedure was a necessary condition only in the second eventuality covered by this Rule.

2318. No delegation supported this suggestion.

**Rule 69 (68) — Form of decisions**

2319. In view of the outcome of the deliberations concerning Rule 67, the Norwegian delegation withdrew its proposal as given in M/71, page 6.

2320. The Chairman said that the Committee had before it three proposals for amendments submitted by the Austrian, Netherlands and Swiss delegations (M/41, page 85; M/52, page 2; and M/54, page 26 respectively).

2321. Since the Swiss delegation's proposal concerning paragraph 2 was the furthest from the present wording, the Chairman submitted it to the Committee for discussion.

2322. The Swiss delegation confirmed that its proposal was further from the present wording than was the Austrian delegation's proposal, in that it referred not only to information as to legal means, but also incorrect indications concerning, for example, the form of the appeal and appeal fees. In Swiss law, an appellant could rely on being informed of time limits, the form of appeals and appeal fees given in communications; this fact was a fundamental principle of procedural law, to his benefit. Respect of the principle of good faith, which was applicable in every administrative procedure, required that if a communication included incorrect indications, the appellant should not thereby suffer any loss. The Swiss delegation said that it could support the Austrian delegation's proposal concerning paragraph 4. On the other hand, paragraph 5 of the Austrian proposal seemed superfluous, since the Swiss delegation did not think that the Board of Appeal could alter any time limit in the appellant's favour.
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MINUTES
OF THE
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING
UP OF A EUROPEAN SYSTEM
FOR THE GRANT OF PATENTS

(Munich, 10 September to 5 October, 1973)

published by the
Government of the Federal Republic of Germany
Rule 67

Reimbursement of appeal fees

The reimbursement of appeal fees shall be ordered in the event of interlocutory revision or where the Board of Appeal deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation. In the event of interlocutory revision, reimbursement shall be ordered by the department whose decision has been impugned and, in other cases, by the Board of Appeal.
MUNICH DIPLOMATIC CONFERENCE
FOR THE SETTING UP OF A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

- 1973 -

Munich, 30 September 1973
M/ 146/R 10
Original: English/French/German

CONFERENCE DOCUMENT

Drawn up by: General Drafting Committee

Subject: Implementing Regulations: Rules 54 to 82
f) eine kurze Darstellung des Sachverhalts;

g) die Entscheidungsgründe;

h) die Formel der Entscheidung, gegebenenfalls einschließlich der Entscheidung über die Kosten.

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Vgl. Artikel 109 (Prüfung der Beschwerde) und 124 (Ergänzender europäischer Recherchenbericht)

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Regel 68
Rückzahlung der Beschwerdegebühr

Die Rückzahlung der Beschwerdegebühr wird angeordnet, wenn der Beschwerde abgeholfen oder ihr durch die Beschwerde kammer stattgegeben wird und die Rückzahlung wegen eines wesentlichen Verfahrensmangels der Billigkeit entspricht. Die Rückzahlung wird, falls der Beschwerde abgeholfen wird, von der Stelle, deren Entscheidung angefochten wurde, und in den übrigen Fällen von der Beschwerde kammer angeordnet.

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Vgl. Artikel 108 (Abhilfe) und 110 (Entscheidung über die Beschwerde)

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Rule 68
Reimbursement of appeal fees

The reimbursement of appeal fees shall be ordered in the event of interlocutory revision or where the Board of Appeal deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation. In the event of interlocutory revision, reimbursement shall be ordered by the department whose decision has been impugned and, in other cases, by the Board of Appeal.

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Cf. Articles 108 (Interlocutory revision) and 110 (Decision in respect of appeals)
ENTWURF EINER AUSFÜHRUNGSORDNUNG
ZUM ÜBEREINKOMMEN
ÜBER EIN EUROPÄISCHES PATENTERTeilungsverfahren

DRAFT IMPLEMENTING REGULATIONS
TO THE CONVENTION
ESTABLISHING A EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

PROJET DE RÈGLEMENT D'EXÉCUTION
DE LA CONVENTION
INSTITUANT UN SYSTÈME EUROPÉEN DE DÉLIVRANCE DE BREVETS
MÜNCHNER DIPLOMatische KONFERENZ
ÜBER DIE Einführung Eines Europäischen Patenterteilungsverfahrens 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 Patenterteilungsverfahrens
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
Swiss and German delegations emphasised in this respect that this rule could not be interpreted in such a way that the oral decision would constitute an exception. The Drafting Committee, furthermore, thought it desirable to lay down a general provision relating to the form of the decisions taken by all the departments of the European Patent Office (See footnote to the text)."

7. In the last paragraph of point 55 for "from the point of view of international law" read "as an international convention was concerned".

8. Delete the text of point 57 and substitute "Following this decision, the German delegation reserved its position on paragraph 2. It stated that in its opinion it was illogical to lay down a binding rule under which decisions subject to appeal should be accompanied by a notification stating the conditions of appeal, and yet, in paragraph 2, to debar any legal consequences in the event of an infringement of that rule."
ANNEX III

Amendments to the minutes of the meeting from 20 to 23 October 1970

1. Delete the text of point 14 and substitute:
"The Sub-Committee made provision for the reimbursement of the appeal fee in the event of an interlocutory revision, or when the Board of Appeal allows the appeal, on condition that the reimbursement is equitable by reason of a substantial procedural violation."

2. This amendment does not concern the English text.

3. Under point 22 add: "See the footnote to the text."

4. Under point 23 delete the text and substitute "No comments."

5. Under point 27 delete the last paragraph and substitute:
"Paragraph 2 states the deficiencies which may be rectified even after expiry of the opposition period. Nevertheless if no rectification has taken place within a certain period to be laid down by the Opposition Division, the latter will reject the opposition as inadmissible."

6. Delete the texts of points 52, 53 and 20 and substitute:
"This provision lays down that in the event of a hearing or oral proceedings the decisions of the European Patent Office may be given orally at the hearing. They should then be put in writing and notified to the parties. The
INTER-GOVERNMENTAL CONFERENCE for the setting up of a European system for the grant of patents

Brussels, 23 December 1970
BR/68/70

- Secretariat -

MINUTES

of the 4th meeting of Working Party I Sub-Committee
on "Implementing Regulations"
(Luxembourg, 23-27 November 1970)

I.

1. The fourth meeting of the Sub-Committee instructed by Working Party I to draw up draft Implementing Regulations to the Convention was held at Luxembourg, from Monday 23 to Friday 27 November 1970, with Mr. FRESSONNET, Deputy Director, French Industrial Property Institute, in the Chair.

In addition to the national delegations represented in the Sub-Committee, the meeting was attended by WIPO and the International Patent Institute (1).

(1) See the list of participants in Annex I.
12. As examination of the provisions relating to Articles 101 to 107 dealing with opposition proceedings was temporarily postponed, (see under 24), the Sub-Committee next discussed the Implementing Regulations to the Articles of the Preliminary Draft relating to appeals.

Re. Article 111, No. 1 - Content of the appeal

13. No comments.

Re. Article 112, No. 1 - Reimbursement of appeal fees

14. The Sub-Committee made provision for the reimbursement of the appeal fee in the event of an interlocutory revision. In this case, the relevant department would not have made a decision on the appeal. This reimbursement is also provided for when the Board of Appeal allows the appeal and the claims of the appellant, but on condition that the reimbursement is equitable by reason of a substantial procedural violation.

Re. Article 113, No. 1 - Observations by the parties

15. This provision deals with appeals made during opposition proceedings. Under the system set out in the Preliminary Draft, these are the only proceedings involving "other parties".

BR/60 e/70 oyd/KM/prk
MINUTES
of the 3rd meeting of Working Party I Sub-Committee
on "Implementing Regulations"
(Luxembourg, 20-23 October 1970)

1. The third working meeting of the Sub-Committee instructed by Working Party I to draw up draft Implementing Regulations to the Convention was held at Luxembourg, from Tuesday 20 to Friday 23 October 1970, with Mr. FRESSONET, Deputy Director, French Industrial Property Institute, in the Chair.

In addition to the national delegations represented in the sub-Committee, the meeting was attended by BIRPI and the International Patents Institute (IIB) (1).

(1) See the list of participants in Annex I.
Règlement d'exécution

6 - 9 - 63

Ad article 109

Numéro 1

Remboursement de la taxe de recours

Le remboursement de la taxe de recours est ordonné en cas de révision préjudicielle ou lorsqu'il est fait droit au recours par la Chambre de recours, si le remboursement est équitable en raison d'un vice substantial de procédure. Le remboursement est ordonné, en cas de révision préjudicielle, par l'instance dont la décision a été attaquée et, dans les autres cas, par la Chambre de recours.
Avant-projet
de règlement d'application de la convention relative à un droit européen des brevets
M. van Benthen fait remarquer qu'en vue de l'article 110, paragraphe 2 c) aura l'effet de rendre un recours irrecevable, ce qui n'est pas voulu.

Le Groupe décide de supprimer entièrement c) étant donné que la sanction prévue à l'article 110, paragraphe 2, sous une forme appropriée, est suffisante. Le numéro 1 est transmis au Comité de rédaction, qui prendra s'ilin également de remplacer au paragraphe 2 l'expression "doit" par "doit en principe".

**Article 109 - N° 1**

Le Président expose que ce numéro correspond à la deuxième phrase de l'article 109, paragraphe 1, en détaillant quand le remboursement de la taxe doit être prévu et qui le donnera.

Le Comité de rédaction est chargé de remplacer dans la première ligne du numéro 1 le mot "peut" par "doit", puisque la référence à l'équité est une indication suffisante du pouvoir d'appréciation de la Chambre des Recours.

Ensuite, la deuxième phrase de l'article 109, paragraphe 1, peut être supprimée.

**Article 110 - N° 1**

Le Groupe décide, suivant une suggestion de M. van Benthen, de supprimer le premier paragraphe de ce numéro, en maintenant l'article 107, paragraphe 2. En effet, la participation des tiers à la procédure est un principe qui doit être inscrit dans la Convention elle-même. Ainsi, le numéro 1 est réduit à la disposition concernant la renonciation à la participation par un tiers.

**Article 110 - N° 2**

Répondant à M. van Benthen qui doute de la nécessité de la dernière phrase du paragraphe 2, le Président explique que tous les participants en première instance sont automatiquement parties dans la procédure de recours, en vertu de l'article 107. Pour éviter un travail superflu, la phrase en cause tend à examiner l'intérêt réel des tiers participants,

.../...
Résultats de la neuvième session
du groupe de travail "Brevets"
qui s'est tenue à Munich
du 1er au 12 juillet 1963.

COMPTES RENDUS
Ad article 109
Numéro 1

Remboursement de la taxe de recours

Le remboursement de la taxe de recours peut être ordonné, lorsqu'il est fait droit au recours en tout ou en partie et que le remboursement est équitable en raison d'un vice manifesté de procédure. Le remboursement est ordonné par l'instance dont la décision a été attaquée, lorsqu'il est fait droit au recours en partie, et par la Chambre de recours, lorsqu'il est fait entièrement droit au recours.
Projet de règlement d'exécution de la Convention relative à un droit européen des brevets

Proposition d'exécution des articles 105 à 113 de la Convention
ARBEITSGRUPPE
"Patente"

4419/IV/63-D
Brüssel, den 20. Januar 1964
VERTRAULICH

VE 40 1964

Vorentwurf
einer Ausführungsordnung zum Abkommen über
ein europäisches Patentrecht
Herr van Bentheim bemerkt, daß c) im Hinblick auf Artikel 110 Absatz 2 die Folge hätte, daß eine Beschwerde unzulässig würde. Das sei nicht gewollt.

Die Gruppe beschließt, c) völlig zu streichen, da die in Artikel 110 Absatz 2 vorgesehene Sanktion in angemessener Form ausreichend sei. Die Nummer 1 wird an den Redaktionsausschuß überwiesen, der auch dafür sorgen soll, daß in Absatz 2 der Ausdruck "muß" durch "muß grundsätzlich" ersetzt wird.

Artikel 109 Nr. 1

Der Vorsitzende führt aus, daß diese Nummer dem Artikel 109 Absatz 1 Satz 2 entspreche und im einzelnen regel, wenn die Erstattung der Gebühr vorzusehen ist und wer sie anordnen soll.

Dem Redaktionsausschuß wird aufgetragen, in Nummer 1 erste Zeile das Wort "kann" durch "muß" zu ersetzen, da der Hinweis auf die Billigkeit ein ausreichendes Anzeichen für die Ermessensbefugnis der Beschwerdekammer sei.

Dann kann der zweite Satz in Artikel 109 Absatz 1 gestrichen werden.

Artikel 110 Nr. 1


Artikel 110 Nr. 2

Der Vorsitzende antwortet Herrn van Bentheim, der an der Notwendigkeit des letzten Satzes von Absatz 2 Zweifel hat, daß alle am erstinstanzlichen Verfahren Beteiligten gemäß Artikel 107 automatisch am Beschwerdeverfahren beteiligt seien. Zur Vermeidung überflüssiger Arbeit ziele der fragliche Satz auf eine Prüfung des berechtigten Interesses der beteiligten Dritten hin.

.../...
Ergebnisse der neunten Sitzung
der Arbeitsgruppe "Patente", die vom 1. bis 12. Juli 1963
in München stattfand

Sitzungsbericht
Zu Artikel 109
Nummer 1

Rückzahlung der Beschwerdegebühr

Die Rückzahlung der Beschwerdegebühr kann angeordnet werden, wenn der Beschwerde abgeholfen oder ganz stattgegeben wird und die Rückzahlung wegen eines offensbaren Verfahrensmangels der Billigkeit entspricht. Die Rückzahlung wird, falls der Beschwerde abgeholfen wird, von der Stelle, deren Entscheidung angefochten wurde, falls der Beschwerde stattgegeben wird, von der Beschwerdekammer angeordnet.
Arbeitsentwurf
zu einer
Ausführung ordnung
zum
Abkommen über ein europäisches Patentrecht

Vorschläge zur Ausführung der
Artikel 105 bis 113
des Abkommens
designated Contracting States. The valid interests of an assumed infringer in the retroactive revocation of the patent may thus be upheld. In this connection it may be noted that this amendment has raised the opposition proceedings another step towards the level of actual revocation proceedings.

A further procedural amendment was made to Article 104 whereby any person who has been given notice by the proprietor as a result of a claimed patent infringement may also intervene in the opposition proceedings, if he proves that he has instituted proceedings to establish that the act in question did not infringe the patent. This text takes into account the fact that national laws of Contracting States allow such actions for negative declaratory judgments.

9. Appeals procedure (Articles 105-111/Rules 65-68)

Corresponding to the amendment to Article 98 with reference to the possibility of continuing the opposition proceedings despite the lapse of the patent, the Committee decided also to allow an appeal against a decision of the Opposition Division in such cases and to amend Article 105 accordingly. It was consequently made clear in Article 106 that all parties to proceedings of the first instance are also parties to appeal proceedings, even if they do not actively participate in the proceedings, so that for example a decision concerning costs by the Boards of Appeal which differs from the decision of the lower department will be binding for all parties.

The discussions during the earlier stages of the negotiations concerning the length of the time limit for filing an appeal were — as was to be expected — resumed in the Main Committee. An exchange of opinions showed that the division of the time limit for filing an appeal, as provided for in Article 107, into a time limit for filing the appeal and a time limit for filing the grounds for appeal, was generally welcomed. In the interests of the applicants and especially of their representatives who have such a multiplicity of time limits to observe, the Main Committee divided the time limits into one of two months for the notice of appeal, which also applies to the payment of the fee for appeal, and one of four months for filing the grounds for appeal; both time limits are to commence from the time when notification is given of the contested decision. This amendment made it necessary to adjust the one-month time limit for interlocutory revision, which now begins from the receipt of the grounds for appeal (Article 108). If the potential appellant waits until the end of each time limit — which experience leads us to expect — an appeal which is not immediately allowed will not reach the Board of Appeal earlier than five months after the contested decision has been taken! Whether this is compatible with the previously defended principle of streamlining the proceedings, remains to be seen.

In Article 109, paragraph 3, it was specified in respect of the appeals procedure that the deemed withdrawal of a European patent application in the event of failure to reply to an invitation from the Board of Appeal is not valid in proceedings against decisions of the Legal Division. In Article 111 the Committee expressly maintained in the interests of clear legal relationships that the parties to appeal proceedings should also be parties to any proceedings before the Enlarged Board of Appeal. Such a principle could easily be derived from Articles 112/115.

10. General principles governing procedure (Articles 112-126/Rules 69-92)

Some points of the general rules governing procedure were discussed in the Main Committee. In order to avoid improper delays in proceedings an assurance was given in Article 115 that repeated requests for oral proceedings could be refused by the European Patent Office under certain conditions. In Article 116 and in Rule 73 the peculiarities of the national laws of Contracting States were taken into account in respect of the taking of evidence, on the basis of letters rogatory, by authorities in the Contracting States and, in addition to the giving of evidence under oath by a party, witness or expert, provisions were made for other binding forms of evidence which enable the truth to be established. With reference to the communication of the possibility of appeal in accordance with Rule 69, paragraph 2, the principle that parties may invoke errors in the communication was abandoned; errors are however almost entirely excluded because reference must always be made in the communication to the relevant provisions of Articles 105-107, the text of which must be attached.

The rules governing time limits and the arrangements for dealing with unobserved time limits were adopted by the Committee with the following amendments. In Article 120 the time limit concerning the request for further processing of the European patent application was adapted to the new time limit for filing appeals and was therefore quite rightly reduced from three to two months. There was a detailed discussion on the concept of "force majeure" required in accordance with Article 121 for the re-establishment of rights. This condition was generally felt to be too strict because it would justify re-establishment only in the rarest of cases. The Committee also considered conditions such as those of the "unavoidable event" or of the "legitimate excuse" which are based on national laws of Contracting States. After comparing the laws of various States, the Committee finally agreed, in accordance with the conclusions of the Working Party which it had set up, that the justification for the re-establishment of rights was an impediment which, in spite of all due care required by the circumstances having been taken, had led to the non-observance of the time limit. The Committee also endorsed the general opinion that in reality justice is done to this obligation to take all due care only if the applicant or proprietor and his assistants, especially his representatives, have complied with it. In addition, the Committee considered that Article 121 was to be interpreted in a restrictive manner.

The Main Committee extended the maximum duration of time limits to be set by the European Patent Office under Rule 85 from four to six months for certain special circumstances. However, a proposal was not accepted which aimed to make provision for a one-month extension, on request, of any time limit for representatives who in the proceedings had to draw up documents to the European Patent Office in a language other than the official language of their State or residence. The Committee recognised unanimously that during a transitional period such translation difficulties should be deemed to be "certain special circumstances" within the meaning of paragraph 1 of Rule 85, in so far as the parties complied with their obligation to take due care in obtaining translations.

The provision in Article 124 concerning the procedure for drawing up supplementary search reports provided a large amount of material for discussion. This Article was deleted. The Committee considered it unnecessary to impose search costs on the applicant in the event of his making necessary an additional search due to an amendment to the claims. This financial problem could be settled by slightly increasing the standard amount of the main search fee. After lengthy discussions the Committee reached the majority decision that additional fees for additional searches which were drawn up outside the procedure for international search reports under Article 156, could be dispensed with, especially since such an additional cost would have an unfavourable visual effect in the Convention. At the same time the Committee stated expressly