

CA/63/13

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SUMMARY OF DECISIONS

of the

136th meeting of the

ADMINISTRATIVE COUNCIL

Munich, 26 and 27 June 2013

SUBMITTED BY: Council Secretariat

ADDRESSEES: Administrative Council (for information)

This document summarises the decisions taken at the Council's 136th meeting. Annex 1 lists the resulting CA/D documents and their corresponding CA originals.

1. AC AND GENERAL AFFAIRS

1.1 Adoption of the provisional agenda (CA/51/13)

1. The Council first unanimously decided to keep on the agenda Corr. 1 and 2 to CA/55/13 "Social report of the year 2012" (agenda item 9.1), as well as CA/59/13, dealing with the "Functioning of the Administrative Tribunal of the International Labour Organization", coming from the Central staff committee and submitted via the President, in accordance Article 9(2.2)(b) of its Rules of procedure, although these three documents - for information - had been published between the 16-day and 8-day deadlines under Article 9(2.1) and 9(2.3) of the Council's rules of procedure.

2. The Council then unanimously approved the list of "A" items in CA/51/13. It thereby

noted the information in:

- CA/15/13 e "Exchange of information on current trends in activity at the National Patent Offices and at the EPO (= item 1.6);
- CA/53/13 "Status of ratification procedures" (= item 3.3);
- CA/16/13 + Corr. 1 + Add. 1 "Progress report on co-operation with member states" (= item 4.2);
- CA/36/13 "Opinion given by the Supervisory Board of the RFPSS pursuant to Article 7 of the RFPSS Regulations" (= item 8.2);
- CA/5/13 and CA/6/13 "RFPSS management reports for the 4th quarter 2012 and the 1st quarter 2013" (= item 8.3);
- CA/9/13 "Report on the EPO's staff home loans scheme" (= item 10.1);
- CA/43/13 "Daily cost of an A- and B/C grade" (= item 11.5),

and

- CA/11/13 and CA/12/13 "Financial statements for the 4th quarter 2012 and the 1st quarter 2013" (= item 11.6)

and unanimously approved

- the draft working agreements on search co-operation with San Marino and Lithuania as set out in Annexes 1 and 2 of CA/54/13, thereby giving mandate to the President to sign such agreements on behalf of the Organisation (= item 3.4), and

- the draft decision in Part II of CA/34/13 "Amendment to Article 50 FinRegs" (= item 11.8) [see CA/D 8/13].
3. Furthermore, applying the policy outlined in CA/26/12 Rev.1 and unanimously approved at its June 2012 meeting, the Council unanimously decided that CA/15/13, CA/43/13, CA/53/13 and CA/54/13 be made available to the public via the EPO website, but not CA/6/13, CA/11/13, CA/12/13, CA/16/13 + Corr. 1 + Add. 1 and CA/34/13.
 4. The Council then endorsed a suggestion of its chairman that the Staff Representation be given the opportunity to briefly present the results of a survey commissioned by the Central Staff Committee after discussion of agenda item 9.1 ("Social report for the year 2012").
 5. Finally, subject to the above, the Council unanimously adopted the agenda set out in CA/51/13.

1.2 Approval of the draft minutes of the Council's 135th meeting (CA/47/13)

6. The Council unanimously approved the draft minutes of its 135th meeting as set out in CA/47/13 [see CA/PV 135].

1.3 Chairman's activities report

7. The Council noted the oral report by its chairman on the B28's 53rd meeting, held on 27 May 2013 in Amsterdam.

1.4 President's activities report

8. The Council noted the President's oral report and congratulated him, his management team and all EPO staff the outstanding results again achieved by the Office in all areas.

1.5 Request by Montenegro for observer status on the Technical and Operational Support and Patent Law committees (CA/37/13 e)

9. The Council unanimously decided to grant Montenegro observer status both on the Technical and Operational Support Committee and on the Patent Law Committee.

1.6 Exchange of information on current trends in activity at the National Patent Offices and at the EPO (CA/15/13 e)

10. "A" item - see above point 1.1.

1.7 Any other strategic and personal issues (restricted composition)

11. Meeting in restricted composition, without the observers and the staff and Office representatives (apart from the President), the Council
- took note of the results of an investigation recently conducted by the independent Internal audit. This investigation concerned the Vice-President DG 4, appointed by the Council.
 - addressed broad issues pertaining to the social situation and the social dialogue. The Council reiterated its full support to the President in his endeavours to achieve reasonable and balanced measures.

2. APPOINTMENTS/ELECTIONS

2.1 Council appointments 2013

12. The Council noted that a document, containing a call for candidates for the two elective functions due to become vacant soon, after lapse of mandate, namely, Deputy Chair of the Administrative Council and Deputy Chair of the Budget and Finance Committee, would be issued shortly. Ideally, elections should take place at the next Council meeting (15-16 October 2013).

2.2 Board of Auditors - composition

13. The Council noted that a successor to Michel Camoin (FR) as member of the Board of Auditors will have to be appointed at the latest at its December 2013 Council meeting.
14. The Council also noted that a french-speaking candidate is needed. Names of candidates should be filed by the Chairman, via the Council secretariat, not later than 15 August 2013.

2.3 Supervisory Board of the Academy of the European Patent Organisation - composition (CA/58/13)

15. The Council was reminded that one position as alternate member of the Supervisory Board of the Academy of the European Patent Organisation remained vacant.

2.4 Boards of appeal; appointments and reappointments (CA/C 4/13)

16. Meeting in restricted composition, without the observers and the staff and Office representatives (apart from the President and the Vice-President DG 3), the Council unanimously decided to make the following appointments:

- Andreas Haderlein (AT), appointed as a technically qualified member of the Boards of Appeal, with effect from a date to be fixed in consultation with Vice-Presidents DG1 and DG3;
- Ambrogio Uselli (IT), appointed as a technically qualified member of the Boards of Appeal, with effect from a date to be fixed in consultation with Vice-Presidents DG1 and DG3;
- Klaus Schenkel (ES), appointed as a technically qualified member of the Boards of Appeal, subject to Article 8 of the Service Regulations and with effect from a date to be agreed upon between him and the President of the Office;
- Paula San-Bento Furtado (PT/GB), appointed as technically qualified member of the new Board of Appeal due to be created in the field of electricity, with effect from a date to be fixed in consultation with Vice-Presidents DG 1 and DG 3;
- Ronald de Man (NL), appointed as technically qualified member of the new Board of Appeal due to be created in the field of electricity, with effect from a date to be fixed in consultation with Vice-Presidents DG 1 and DG 3.

3. LEGAL AND INTERNATIONAL AFFAIRS

3.1 Unitary patent and related developments; status report

17. -

3.2 Report of the chairman of the Select Committee on its 2nd and 3rd meeting

18. The Council noted the oral report of the chairman of the Select Committee on its 2nd and 3rd meeting.

3.3 Status of ratification procedures (CA/53/13)

19. "A" item - see above point 1.1.

3.4 Working agreement on search co-operation – request for a mandate to conclude the agreements with the Republic of San Marino and the Republic of Lithuania (CA/54/13)

20. "A" item - see above point 1.1.

4. TECHNICAL CO-OPERATION/INFORMATION

4.1 Report of the chairman of the Technical and Operational Support Committee on its 77th meeting

21. The Council noted the oral report of the chairman of the Technical and Operational Support Committee on its 77th meeting.

4.2 Progress report on co-operation with member states (CA/16/13 + Corr. 1 + Add. 1)

22. "A" item - see above point 1.1.

5. AUTOMATION

6. AWARD OF CONTRACTS

7. BUILDING MATTERS

7.1 Award of contract concerning the Design and Construct of a New Main building at the EPO Rijswijk location (CA/XP 1/13 Rev. 1)

23. Meeting in restricted composition, the Council unanimously authorised the President to enter into negotiations with the TBI consortium New Main, 3000 BJ Rotterdam, The Netherlands, led by HEVO B.V., in view of concluding a design and construct contract for a new main building at the EPO Rijswijk location, under the conditions specified in CA/XP 1/13 Rev. 1.

7.2 Authorization to the President to conclude amendments to the New Main building contract at the EPO Rijswijk location without prior approval of the Budget and Finance Committee (CA/XP 2/13)

24. Meeting in restricted composition, the Council unanimously approved the measures proposed in CA/XP 2/13.

8. RESERVE FUNDS FOR PENSIONS AND SOCIAL SECURITY (RFPSS)

8.1 Report of the Chairman of the RFPSS Supervisory Board (CA/22/13 + CA/48/13)

25. The Council noted the oral report of the deputy chairman of the RFPSS Supervisory Board on its 80th and 81st meeting.
26. It congratulated the deputy chairman and Fund Administrator on the excellent work.

8.2 Opinion given by the Supervisory Board of the RFPSS pursuant to Article 7 of the RFPSS Regulations (CA/36/13)

27. "A" item - see above point 1.1.

8.3 Quarterly RFPSS management reports (3/2012 + 4/2012) (CA/5/13 + CA/6/13)

28. "A" item - see above point 1.1.

9. PERSONNEL/POLICY MATTERS

9.1 Social report for the year 2012 (CA/55/13 + Corr.1 d+f)

29. The Council noted CA/55/13 + Corr.1 d+f and looked forward to receiving such reports on a more continuous basis.

30. The Council decided to make CA/55/13 + Corr.1 d+f available to the public.

31. The Council noted a presentation given by the staff representatives on a staff survey which they had conducted.

9.2 Improving working conditions and well-being (CA/56/13)

32. The Council unanimously adopted the draft decision set out in Part II of CA/56/13. (Present: 36; for: 34 - AL, AT, BE, BG, CH, CY, DE, DK, EE, ES, FI, FR, GB, GR, HR, HU, IE, IS, IT, LT, LU, LV, MC, MK, MT, NL, NO, PL, PT, RO, SI, SK, SM, TR; abstentions: 2 - RS, SE) (see CA/D 4/13).

33. The Council decided to make CA/56/13 available to the public.

9.3 Amendment of the Service Regulations concerning strikes and unauthorised absence (CA/57/13)

34. The Council unanimously adopted the draft decision set out in Part II of CA/57/13. (Present: 35; for: 28 - AL, AT, BG, CH, CY, DE, DK, EE, ES, FI, FR, GB, GR, HR, IE, IS, LT, LU, LV, MC, MK, MT, NL, PL, PT, RO, SM, TR; abstentions: 7- BE, IT, NO, SI, SK, RS, SE) (see CA/D 5/13)

35. The Council decided to make CA/57/13 available to the public.

10. PERSONNEL/OPERATIONAL MATTERS

10.1 Report on the EPO's staff home loans scheme (CA/9/13)

36. "A" item - see above point 1.1.

10.2 Requests for review of Administrative Council decisions CA/D 34/07, CA/D 9/12 and CA/D 17/12 (CA/39/13)

37. The Council unanimously decided to refer to the President the requests for review of CA/D 34/07.
38. The Council unanimously decided to refer to the President those requests for review of CA/D 17/12 which allege adverse personal effects and are not only concerned with the general decision in CA/D 17/12, and to reject the remainder as manifestly irreceivable.
39. The Council unanimously decided to reject the requests for review of CA/D 9/12 as manifestly irreceivable, to refuse the requests based on Article 109(6)(b) ServRegs, and to give a final decision creating the possibility of a complaint to the Tribunal.
40. The Council decided not to make CA/39/13 available to the public.
41. The Council noted CA/59/13, dealing with the "Functioning of the Administrative Tribunal of the International Labour Organization", and decided not to make this document available to the public.

11. FINANCIAL MATTERS/BUDGET/PLANNING

11.1 Report of the chairman of the Budget and Finance Committee concerning its 106th meeting (CA/49/13)

42. The Council noted the oral report of the chairman of the Budget and Finance Committee on its 106th meeting.

11.2 Accounts for the 2012 accounting period (CA/10/13 + CA/60/13)

43. Under Article 49(4) EPC, the Council unanimously approved the budget implementation statement for 2012 as set out in CA/10/13 and the financial statements as set out in CA/60/13.
44. The Council decided to make CA/60/13 available to the public, but not CA/10/13.

11.3 Performance Management: Unit Cost results for 2012 (CA/45/13)

45. The Council noted the information in CA/45/13.
46. The Council decided not to make CA/45/13 available to the public.

11.4 Board of Auditors' report on the 2012 accounting period, and explanations and reasons supplied by the President of the Office (CA/20/13)

47. Under Article 49(4) EPC, the Council unanimously approved the auditors' report in CA/20/13, and discharged the President in respect of implementation of the 2012 budget (Article 80(5) FinRegs) and the Fund Administrator in respect of fund management in 2012 (Article 7(1)(c) RFPSSRegs + Article 80(4) FinRegs).

11.5 Daily cost of an A- and B/C grade (CA/43/13)

48. "A" item - see above point 1.1.

11.6 Quarterly financial statements (4/2012 + 1/2013) (CA/11/13 + CA/12/13)

49. "A" item - see above point 1.1.

11.7 Initial 2014 budgetary orientations (CA/25/13)

50. The Council gave a unanimous favourable opinion on the initial 2014 budgetary orientations outlined in CA/25/13.
51. The Council decided to make CA/25/13 available to the public.

11.8 Amendment to Article 50 Financial Regulations (CA/34/13)

52. "A" item - see above point 1.1.

12. MISCELLANEOUS

12.1 Any other business

53. The chairman, on behalf of the Council, and the President, on behalf of the Office, paid tribute to Guus Broesterhuizen, Head of the Netherlands delegation and former chairman of the Budget and Finance Committee (June 2009 - June 2012), who was attending his last Council meeting before retiring, and wished him well for the future.

ANNEX 1 CA/D DOCUMENTS

<u>CA/D</u>	<u>ex CA</u>	<u>Title</u>
CA/D 4/13	CA/56/13	Decision of the Administrative Council of 27 June 2013 amending Articles 26, 55 and 62 of the Service Regulations for permanent employees of the European Patent Office
CA/D 5/13	CA/57/13	Decision of the Administrative Council of 27 June 2013 inserting an Article 30a and amending Articles 63 and 65 of the Service Regulations for permanent employees of the European Patent Office
CA/D 8/13	CA/34/13	Decision of the Administrative Council of 26 June 2013 amending the Financial Regulations of the European Patent Organisation of 20 October 1977 as revised on 5 July 1991 and last amended by decision of the Administrative Council of 11 December 2012 (CA/D 16/12)