

Celebration of the 40th anniversary of epi

M. Névant (FR)

A day before the 84th Council meeting took place a meeting was held to celebrate the 40th anniversary of our Institute. The event which was moderated by our President, Francis Leyder, featured distinguished speakers.

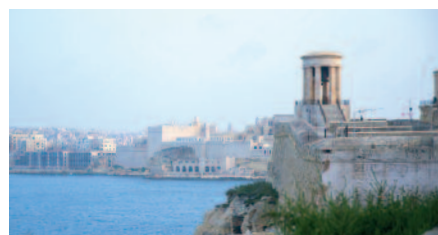
Mr. Battistelli, the President of the European Patent Office, was given the floor first. Mr. Battistelli gave a presentation on the latest developments at the EPO, and stressed how important the relationship and cooperation between the **epi** and the EPO had been over the years.

The floor was next given to Mr. Warr, the Director General of Commerce of the Maltese government. Mr. Warr gave a presentation on the changes in IP law having taken place in Malta since the country joined the EU in 2004.

Mr. Duran, the Chair of the **epi** Reporting Group, then gave some highlights on the role of **epi** and presented the reforms undergone the past 3 years as a result of decisions taken by the **epi** Council.

Finally the floor was given to Ms. Augustyniak who qualified as professional representative 3 years ago and was then part of the Candidate Support Project. Ms. Augustyniak gave her views on i.a. (continued) education and IP awareness, and on the future of **epi**.

A gala dinner was organized to conclude the day, during which Mr. Leyder, Mr. Battistelli and Mr. Cardona (the Maltese minister of economy) gave speeches. Pictures of the event are included below.



Report from the 84th Council meeting in Valetta on 14th April 2018

M. Névant (FR)

The President opened the meeting at 9.40 am. The revised agenda was adopted. The English version of the minutes of the previous Council meeting, C83, was amended to read in decision 7: "Council approves the proposal of PEC of an **epi** 3 year training plan for **epi** students provided the mock-EQE is implemented if financially sustainable". The amended minutes of C83 were then adopted.

Matters arising from the minutes of C83

The Secretary General informed Council that the possibility of having the minutes of Council meetings available in English only, was still being studied.

Report of the Board

The President referred to the documents sent to Council members in advance of the meeting.

Report of the President and Vice-Presidents

The President referred to the document sent to Council members in advance of the meeting.

Vice-President Kunič Tesović presented a proposal for implementation of a web-based, work-sharing platform: patent firms and/or individual representatives could post on the

platform an advertisement either to offer or to seek patent-related work. This is known in Germany as “Kollegienarbeit”. The proposal was well received by Council; its implementation will be studied in collaboration with i.a. the Editorial Committee.

Report of the Secretary General and annual 2017 report

Before commenting on his report, the Secretary General gave the floor to Ms. Selda ARKAN (TR) who gave a eulogy in memory of Council member Mr Sertac KOKSALDI (TR) who passed away on 18th January 2018. Council then observed a minute of silence.

The Secretary General then referred to the documents sent to Council members in advance of the meeting. The Secretary General in particular drew the attention of Council on a change of venue for the 2019 autumn Council meeting, which will take place in Lisboa instead of Monaco.

Reports of the Treasurer, Internal Auditors and epi-Finances Committee

1/ The Treasurer then referred to his previously circulated report. **epi** concluded 2017 with an overall result of + 71 k€, to be compared with a planned budgeted deficit of -33 k€. Higher than planned costs incurred for IT (in particular for the new bookkeeping software launched last October, as reported in **epi** information 4/2017) were offset by a marked decrease in expenses related to Presidium, Board and committee meetings.

2/ The Internal Auditors reported that the audit for fiscal year 2017 had been done by applying the rules of the German Commercial Code (“Handelsgesetzbuch”, HGB). The auditing firm came to the conclusion that the bookkeeping was in order and complied with the rules of the HGB. No further specific remarks were made by the **epi**-Finances Committee.

3/ The Treasurer also presented the financial outlook for 2018. Based on a snapshot of the situation as of March 27, 2018, the Treasurer indicated that there was no need in his view to revise the budget agreed during C83 in Warsaw (a planned deficit of 42 k€). High expenses were again to be expected for IT and Finance & Law, notably because of (i) the intended implementation, within **epi**, of the General Data Protection Regulation (GDPR) which will enter into force on May 25, 2018, and (ii) the need for further external support/opinions on tax and legal status questions.

4/ In line with a proposal of the external and internal auditors, the Treasurer requested that the decision taken by Council in Hamburg (C73) be clarified. According to that decision the Treasurer can invest up to 500 k€ in non-Euro currencies, however the decision does not men-

tion whether non-Euro currencies include those which are fully hedged/secured against the Euro. Hence Council was invited to vote on a proposal to clarify that the amount of investments in non-Euro currencies do not include currencies which are fully hedged/secured against the Euro. The proposal was adopted by a large majority of Council members.

5/ The Treasurer further reported on the planned amendment of Rule 154(1) EPC to be presented to the Administrative Council of the EPOrg (AC). In its meeting of February 20, 2018 the Committee on Patent Law (CPL) suggested



improving the wording of Rule 154(1) – which had already been streamlined following discussion with the EPO Legal Division - to include more details, in particular with regard to the applicable timelines for paying the annual subscription. The revised wording of Rule 154(1) proposed by the Treasurer was as follows:

“(1) The entry of a professional representative shall be deleted from the list of professional representatives if he so requests or if, despite a reminder, he fails to pay the applicable annual subscription to the Institute within five months from either:

(a) 01 January for members being on the list on that date; or

(b) the date of entry for members having been entered on the list after 1 January of the year for which the subscription is due.”

Council approved the revised wording. It was hoped that the amendment to Rule 154(1) EPC could be presented to the AC before the end of the year.

6/ The Treasurer also informed Council members that with regards to the professional insurance liability (framework contract with RMS/Lloyds) premium amounts of about 125 k€ had been collected as of April 2018 (an amount of 200 k€ needs to be collected by October 2018 otherwise **epi** will have to pay for the difference). It was reminded that information on the framework contract was available on the **epi** website (<https://patentepi.com/en/professional-liability-insurance/product-information.html>).

7/ There was a lively exchange of views between the Treasurer and the Chair of the Disciplinary Committee (DC),



regarding the use of the budget of the DC. Mr. Axel Casalonga (FR) suggested that the overall budget of the DC be split to distinguish between expenses related to the handling of complaints on the one hand and expenses related to meetings on the other hand. Both the Treasurer and the Chair of the DC thanked Mr. Casalonga for his proposal which was easy to implement.

Discharge of Treasurer and Board for fiscal year 2017

After hearing the report of the Treasurer and the comments of the Internal Auditors and of the **epi**-Finances Committee, Council discharged the Treasurer and the Board for fiscal year 2017.

Report of the By-Laws Committee

The Chair of the By-Laws Committee (BLC) reported on the activity of the Committee since the last Council meeting. The BLC notably addressed the following topics:

- incompatibilities between certain committees or bodies of the **epi**;
- final amendments to article 18 BL;
- proposal from the Internal Auditors to amend article 20.1 BL;
- proposal to amend article 15.4 BL to inform all **epi** members after each Council meeting.

Amendments to articles 15.4, 18 and 20.1 BL were thus presented to Council and were all adopted.

Amendments to the Terms of Reference of the BLC, PEC (Professional Education Committee), PCC (Professional Conduct Committee) and SAC (Studentship Admissions Committee) were also presented to Council. These amendments, intended to take into account the above-mentioned incompatibilities, were all adopted by Council.

Election of Committees

Council elected 3 additional full members of the Harmonisation Committee, four substitute members of the **epi**-Finances Committee, as well as the Turkish member of the European Patent Practice Committee.

Reports of Committees

1/ The Chair of the Professional Conduct Committee (PCC) referred to the document sent to Council members in advance of the meeting (proposal to amend the **epi** Code of Conduct, the aim being to take into account the fact that European Patent Attorneys may represent clients before the Unified Patent Court). Mr. Axel Casalonga (FR) drew the attention of Council to the fact that there seemed to be a loophole in the UPC Code of Conduct (CoC): the CoC shall indeed apply to representatives under article 48(1) or (2) of the Agreement on a Unified Patent Court, which article 48(2) de facto excludes European Patent Attorneys who do not “have appropriate qualifications such as a European Patent Litigation Certificate”.

The Chair of the PCC invited Council members to send comments on the proposed amendments by May 31, 2018. A dedicated forum will be available to that effect on the **epi** website.

2/ The Chair of the Disciplinary Committee (DC) gave a presentation on the structure of the DC from its origin back in 1978 to nowadays where the Committee comprises 11 Chambers each comprising 4 members (a president, a rapporteur, and two members one of whom is a substitute). There are currently 5 Chambers having English as official language, 3 Chambers having French as official language, and 3 Chambers having German as official language.

3/ The Chair of the EPPC referred to the documents sent to Council members in advance of the meeting (a draft mem-

orandum on the rules of procedure of the Boards of Appeal). Highlights of the memorandum include:

- **epi** agrees on the principle that a preliminary opinion from the Board should be compulsory;
- **epi** believes that the basis for appeal proceedings should be broadened;
- **epi** fears that the proposed judicial review (of the first instance decision) will only be a legal review;
- **epi** notes that substantial burden is placed on appellants, yet nothing is said about case management by the Boards;
- **epi** also notes with regret that almost no transitional provisions are foreseen.

The draft memorandum was approved by Council.

4/ The Chair of the Editorial Committee presented a draft communication plan prepared together with the Presidium and in particular with the Immediate Past President, Tony Tangena. The plan is intended to increase the awareness of various stakeholders towards the Institute's activities. The plan is also intended to reach a larger audience within the profession by delivering quality content in **epi** Information (reports on law changes, case law, litigation etc.).

5/ The Chair of the Reporting Group pointed out that there was a need to improve the interaction between Council members and suggested the following points for implementation:

- creation of a "national forum" for each constituency (based on the experience of the Italian constituency);
- forwarding to all **epi** members a summary of topics to be discussed at the next Council meeting so that each constituency can gather the views of their members.

Information was also given that a working group had been created to make proposals so that the Secretariat is better adapted to address the current needs and requirements of the various **epi** bodies and committees. The working group was in the process of collecting information from the Secretariat staff.

Closing of meeting

Council thanked the Maltese delegation members with acclamation for their efforts in organising a very successful meeting. The President then closed the meeting at 5:00 pm.

