

Report from the 85th Council Meeting in Helsinki on 10th November 2018

M. Névant (FR), Editorial Committee

President Leyder opened the meeting at 9 am and welcomed the participants. The Secretary General informed the audience that 133 members (out of 139) were present - that number rose to 137 later in the meeting. The agenda was adopted with a slight change: the election of committee members was added under item 8. The minutes of the 84th Council meeting were then adopted.

Matters arising from the minutes of C84

An action point arising from the said minutes was still outstanding, namely the implementation of a double signature system for expenses exceeding 5,000€. Council was informed that the system would probably “go live” next year subject to further discussions between the Internal Auditors and the Presidium.

Report of the Board, President and Vice-Presidents

The President referred to his report submitted in advance of the meeting. Council was informed that the minutes of the last Board meeting were not available in time for the Council meeting and will be dispatched as soon as possible.

Video message of EPO President

The president of the EPO, Mr Campinos, addressed Council via a video message. The content of the message is published immediately after this report.



Report of the Secretary General

The Secretary General next referred to his report submitted in advance of the meeting.

Council was informed of the dates of the next meetings: the 86th meeting will take place in Sofia on 11th May 2019. The 87th meeting will take place in Lisbon on either 16th November or 23rd November 2019. The 88th meeting will probably take place in the UK (date in 2020 and venue to be determined). The 89th meeting will take place in Lubjana in November 2020.

Council then proceeded to elect the following members:

- Ms Hülya Cayli (TR) was elected as member of the PCC with effect as of 1st January 2019. Ms Cayli will replace Ms Selda Arkan (TR) who has been appointed to the Disciplinary Board of Appeal (DBA) with effect from that date.
- Ms Natasa Marsic (HR) was appointed to the DC with effect as of 1st January 2019 in replacement of Ms Dina Korper Zemva (HR) who has also been appointed to the DBA with effect from that date.
- Mr Pierre Gendraud (FR) was appointed substitute member of the By-Laws Committee (BLC) with effect as of 1st January 2019.

Report of the Treasurer

The Treasurer then presented his report on the 2018 budget. As of the end of September income is in line with what was planned. As far as expenses are concerned IT costs are higher than planned notably because secretariat staff had to be trained to the new bookkeeping software and management tool implemented at the end of last year. These higher costs are however balanced by lower costs than planned for committees. Overall the Treasurer indicated that there was no need to adapt the 2018 budget and the planned deficit of 42 k€.

The Treasurer then gave an update on the professional liability insurance. So far 138 k€ have been collected, no minimum amount is due at the end of the year in contrast to what was originally planned by our broker. A change of syndicate has been decided because the premiums for the big firms were not competitive, the new syndicate agreeing to lower those premiums. The solution offered by **epi** appears to be in line with what is required by the German PAK (Patent Anwalt Kammer). The situation is not so clear cut with what is required by IPREG in the UK.

The Treasurer also gave details on the support given by **epi** to the EQE Committees. Since 2017 a pre-marking meeting is organized (typically in April) in one and same venue for all EQE Committees. This has a cost. The EPO has indicated that they would reimburse all meeting costs up to 150 k€, the difference if any being borne by **epi**.

For 2019 it is expected that **epi** would have to pay from 10 to 25 k€. In addition, **epi** pays each year a dinner for all Committee members (typically in June in Munich). It is proposed, as of 2019, to organize the annual dinner during the pre-marking meeting, which would reduce the overall costs borne by **epi**. This will require amending Council decision in C49 (mentioning that the annual dinner takes place in Munich).



The Treasurer also reminded Council members that amended Rule 154 EPC will enter in force on 1st January 2019. The annual subscription will be due at the end of March (versus end of April in previous years). A reminder will be sent by mid-March if no payment has been received. Payments by credit card or Paypal will no longer give rise to extra fees.

Reports of the Internal Auditors/double written approval system

The Internal Auditors informed Council that they were still discussing the implementation of the system with the Treasurer and the Presidium, and will make proposals to be voted on during the next Council meeting.

2019 Budget/report of the epi-Finances Committee

The Treasurer informed Council of the main expenses to be incurred in 2019:

- A legal opinion on the status of **epi** as an international organization should be delivered early next



year. A working group will be formed with the BLC to check whether this status is compliant with the Founding Regulations.

- Offers for an online voting tool have been received, the choice of the selected tool will be made in the first quarter;
- **epi** insurance portfolio will be reviewed with the aim of consolidating the investment asset rules decided in C74 and C77;
- It is planned to streamline the internal process for reimbursing expenses, an electronic tool will be used to that effect; the Treasurer will work with the Finance Committee on this project, which will require a revision of the reimbursement rules as set forth in the By-Laws;

- A budget of 138 k€ is planned for **epi** representation, with a focus on improving communication, which budget includes:
 - modernizing the back structure of the website (switch to a modular system);
 - working on a strategic communication plan (with the help of a specialized agency);
 - “revitalizing” **epi** information;
 - organizing a welcome celebration for new **epi** members.

On the income side, the Treasurer proposed to maintain the subscription fee unchanged (190 € if paid by end of March then 210 €; 95 € for **epi** students). More seminars should be organized in 2019, some with a new format, e.g. an intensive course on the EQE D2 paper.

Overall the balance income/expenses should result in a planned deficit of 65 k€.

The **epi**-Finances Committee informed Council that they approved the 2018 budget and that they had some concerns about the 2019 Communication plan. The “good job by the Treasurer” was nonetheless highlighted.

After hearing the report of the Treasurer and the comments of the **epi**-Finances Committee, Council approved the 2019 budget and the amount of the 2019 subscription fee.

Report of the European Patent Practice Committee (EPPC)

The Chair of the EPPC reminded Council members that a forum is available to discuss all EPPC-related matters, and that said forum needs to be used as much as possible. A number of submissions were made in 2018 including:

- an amicus brief on G1/18
- a letter to the president of the Boards of Appeal (in relation to the new rules of procedure of the Boards of Appeal).

A position paper will be prepared concerning ODEC (Office Driven Early Certainty – i.e. deferred examination).

Report of the Online Communication Committee (OCC)

A draft letter to the President of the EPO was presented by the Chair of the OCC, which addressed the following points:

- electronic notifications from the EPO (Mailbox, MyFiles);
- Online filing: “new” Online Filing System;
- Online filing: closure of “old” Online Filing System;
- Rescue/emergency filing (need for a backup system e.g. fax);
- Authentication and access (limitations of smart card);
- OOXML (docx) filing.

Details on the above points can be found in the report of the OCC published elsewhere in this issue.

Council approved the sending of a letter along the lines mentioned above.

Report of the Professional Conduct Committee (PCC)

The Chair of the PCC presented a proposed amendment to the Code of Conduct (CoC) to take into account activities before the UPC. In order to have the CoC amended, it was necessary that Council approves a request to have the Regulation on Discipline (RoD) amended by the EPORG Administration Council.

Council approved the proposed amendment to the CoC (134 votes in favour, 1 vote against, 0 abstention) and the request to have the RoD amended (130 votes in favour, 0 against, 0 abstention).

Report of the By-Laws Committee (BLC)

The Chair of the BLC reported on the activity of the Committee since the last Council meeting. The BLC notably addressed the following topics:

- amendment of article 1 (consistency with article 134 EPC) and 8.2 (term of office of Board members) of the By Laws (BL);
- amendment of article 54 BL (election of committee members) to set the principle that any **epi** member can be a candidate for the election of any committee (the possibility for full Council members to propose candidates being maintained).

Amendments to articles 1, 8.2 and 54 BL were thus presented to Council. The first two amendments were approved unanimously; the last amendment was approved by a large majority (10 abstentions). The decision to amend article 54 BL will be included in the Collection of Decisions (which is available on the website).

Election of Internal Auditor

Ms. Brigitte Carion-Taravella (FR) was elected as a substitute internal auditor.

Reports of other Committees

1) The Chair of the Harmonisation Committee reported on a meeting between the B+Sub-Group, the Industry Tri-lateral and FICPI whose position on patent law harmonization can be found here: https://www.ficpi.org/_/uploads/gonzo/FICPI-WP-2018-001-Patent_Law_Harmonization.pdf.

2) The Chair of the Professional Education Committee (PEC) reported on a joint meeting with the EQE Examina-

tion Board and Supervisory Board, the purpose of the meeting was to discuss various issues including:

- assessment of the pre-examination
 - current pass rate = 70%
 - relevance of multiple choice format
- amendment of Rules 11 and 14 IPREE (technical qualification for EQE enrolment).

Council was also informed that:

(i) Guidelines had been set up for the **epi** Tutorials and Mock EQEs, aiming at regulating the relationship between the tutors and the candidates, mediated by the **epi**.

(ii) An agreement was reached with the EPO Academy to resume in 2019 the “Life of a patent” training including live seminars and online courses.

(iii) The development and implementation of the 3-year training programme for **epi** students is progressing and will notably include videos and access to an **epi** student forum.

(iv) it is proposed to organize weekend workshops for DII training (Legal Opinion) and for Papers A and B.

The future of the profession

A debate was organized at the end of the meeting to address questions such as if/how should our profession adapt to face challenges ahead of us (e.g. the impact of artificial intelligence on our daily work).

The debate was moderated by our past-immediate president, Tony Tangena (NL). Contributions were made (in that order) by Ms. Ann De Clercq (BE), Ms. Mihaela Theodorescu (RO), Mr. Luis-Alfonso Duran (ES), Mr. Paul Rosenich (LI), Mr. Claude Quintelier (BE), Mr. John Brown (GB), Ms. Ewa Malewska (PL), Ms. Marijke Hogenbirk (NL), Mr. Paolo Gerli (IT), Mr. Francesco Macchetta (IT), Mr. André Clerix (BE), Mr. Axel Casalonga (FR), Ms. Barbara Kunic Tesovic (SI), Mr. Peter Thomsen (CH) and Mr. Joao Pereira Da Cruz (PT).

All speakers agreed on the need, going forward, for a more diverse profession: in addition to obtaining IP rights skills should be developed in the field of economics (e.g. licensing, auditing, tech transfers, valuation). Concerns were also raised that the future may be grim for some countries: it was indeed pointed out that 17 out of the 28 countries of the European Union today file less than 2% of all EP patent applications.

Closing of meeting

Council thanked the Finnish delegation members with acclamation for their efforts in organising a very successful meeting. President Leyder then closed the meeting at 5:20 pm.