

Report from the 88th Council Meeting held by videoconference on 29th June 2020 (and from the pre-Council meeting held by videoconference on 18th June 2020)

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Initially scheduled to take place in Glasgow on 11th and 12th May 2020, the 88th Council meeting (C88) was held on 29th June 2020 by video conference.

Traditionally on election years the Council meeting following the election is scheduled for 1 and a half days. This year, however, the meeting was scheduled for one day only because of the Covid-19 pandemic. In view of this extraordinary situation, a pre-meeting was held on 18th June 2020, also by videoconference.

Pre-meeting on 18th June 2020

1/ The purpose of the pre-meeting, which was scheduled for a 2-hour session, was *inter alia*:

- To present the various functions of the videoconferencing system that would be used to hold C88. Mr Gray, the Chair of the Online Communication Committee (OCC), who had extensively tested the system with the support of the Secretariat, in particular explained that “breakout rooms” would be available for national groups for secured discussions during breaks.
- To test the voting tool that would be used during C88.
- To give an opportunity to the candidates for a position within the Board to introduce themselves.

It is worth mentioning that the pre-meeting was attended by a total of 171 participants, full members and substitute members of Council, and support staff.

2/ The pre-meeting was opened at 10 am by President Leyder. A request was filed by the Dutch delegation concerning the legality of holding the Council meeting by videoconference. The President indicated that the Pre-

sidium decided to cancel the place and date of C88 because of the pandemic. The Presidium had extensive discussion with the By-Laws Committee (BLC), the latter being supported by the Legal Advisors from the Secretariat. The BLC came to the conclusion that **epi** could invoke *force majeure* in view of its international status, and that the Council meeting could be held “online” in view of Articles 55-2 and 55-3 of the By-Laws. It was also pointed out in each election year, according to Article 23 of the By-Laws, Council had to elect (i) Board members, (ii) auditors and their deputies, and (iii) members of the Disciplinary Committee.

3/ Before the candidates were given the floor, the following reports from Committees were presented:

- Mr Mercer, the Chair of the EPPC, briefly explained that the EPPC had filed *amicus curiae*, on behalf of **epi**, in cases G1/19 (simulation), G2/19 (Haar) and G3/19 (pepper), and that another brief was in preparation for case G4/19 (double patenting); concerning the latter case, comments and suggestions were welcome.



- Mr Tangena, the Chair of the working group on the creation of an IP Commercialization Committee, presented provisional terms of reference for this new Committee.
- Mr Rambelli, the Chair of the Professional Education Committee, informed the participants that a series of webinar programs will be offered to members (the first four being organized from 24 June to 15 July and dealing with the following topics: plausibility, priority, clarity and disclaimers).

4/ The following candidates then introduced themselves.

- For the position of President: Mr Francis Leyder (BE), Mr Joao Pereira Da Cruz (PT) and Mr Peter Thomsen (CH).
- For the positions of Vice-President: Mr Baris Atalay (TR), Mr Bogoljub Ilievski (MK), Mr Cornelis Mulder (NL), Mr Paolo Rambelli (IT) and Ms Heike Vogelsang-Wenke.
- For the position of Secretary General: Mr Cornelis Mulder (NL) and Mr Tony Tangena (NL).
- For the position of Treasurer: Mr Peter Thomsen (CH) and Mr Zsolt Szentpeteri (HU).



- For the position of Deputy Secretary General: Ms Magdalena Augustyniak (PL), Ms Brigitte Taravella (FR), Mr Tum Thach (MC) and Mr Simon Wright (GB).
- For the position of Deputy Treasurer: Ms Magdalena Augustyniak (PL), Mr Tum Thach (MC) and Mr Zsolt Szentpeteri (HU).

After the presentation of all candidates, President Leyder closed the meeting.

Meeting on 29th June 2020

1/ Meeting opening

President Leyder opened the meeting at 10 am. For those who could not attend the pre-meeting, President Leyder explained again the reasons why the Presidium decided to cancel the meeting in Glasgow and why the meeting was instead held by videoconference.

Mr Gray, the Chair of the OCC and all the Secretariat staff were warmly thanked for making the arrangements for



the meeting to be held by videoconference. Warm thanks were also expressed to the BLC which provided extensive support.

Council then observed a minute of silence in memory of Mr Alberto de Elzaburu (ES) who passed away during the Easter week-end at the age of 92. Two Council members, Mr Saez Granero and Mr Casalonga, addressed Council to give a eulogy.

As was done during the pre-Council meeting, Mr Gray explained the various functions of the videoconferencing system, and two rounds of voting test were carried out to make sure everybody was comfortable with the voting tool. At that point 208 participants were in attendance, full members and substitute members of Council, scrutineers, observers and support staff.

2/ Appointment of scrutineers

Ms Leissler-Gerstl (DE) and Mr Stöckle (DE), both from Munich, were unanimously appointed as scrutineers.

3/ Results of the election

Mr Müller, the Chair of the Electoral Committee, referred to his report in the accumulated file. Only 6 ballots out of 12741 were sent by post (and all the others electronically). The turnout for the election was 27.4%, to be compared with 26.1% in 2017, 31.5% in 2014 and 39.1% in 2011.

Mr Müller informed members of split constituencies that if they intended to change to unitary constituency then this should be done no later than the year before the next election.

President Leyder thanked the members of the Electoral Committee and, while the list of successful candidates was displayed on a screen, informed Council members that no objections had been raised, and accordingly confirmed the validity of the election. The meeting was therefore duly constituted as the New Council.

4/ Adoption of the provisional agenda

The agenda was adopted (125 votes for, 1 against, 2 abstentions).

5/ Adoption of the minutes of the 87th Council meeting – matters arising from said minutes and all previous Council and Board meetings

The minutes of the last Council meeting were approved (127 votes for, 0 against, 6 abstentions). The Secretary General informed Council members that the action points arising from the last meeting had been completed. It was further noted that the Presidium had established a list of cooperation matters between **epi** and the EPO.

6/ Report of the President and Vice-Presidents

The President referred to his report in the accumulated file, and informed Council members that 10 Presidium meetings and 4 Board meetings had taken place over the past 3 months. Vice-President Vogelsang-Wenke also referred to her report in the accumulated file. Vice-President Kunič Tešović expressed her thanks to Council members for the work done over the past 3 years, in particular for the fact that the workshare initiative had been completed.

7/ Report of the Secretary General

The Secretary General referred to his report in the accumulated file. The Secretary General thanked Mr Gray and the Secretariat for making the meeting possible. The Secretary General also informed Council members that the 90th Council meeting will be held in Glasgow the week-end of 8th and 9th May 2021. The legal advisors will review new contracts with hotels such that a clause is included to provide the possibility to cancel a booking due to force majeure. A discussion ensued regarding the Annual Report 2019, and whether or not a passage of the report actually reflected the Board's position. It turned out that the Board had decided to delete the passage in question and that the wrong document had been included in the accumulated file. The revised version was approved by all voting members but one who abstained.

8/ Report from the Treasurer

a) The overall financial result for 2019 is +220 k€ whereas a deficit of 65 k€ had been planned. Income revenues were slightly higher than expected, because a high number of candidates passed the EQE, generating additional subscription fees, and because the subscription payment was streamlined under amended rule 154 EPC. Expenses were substantially lower than planned for all cost centres, save for the IT cost centre.

b) The Treasurer then provided an update on a number of topics and on-going projects, including:

- according to an external opinion by a recognized expert in international public institution law, the legal status of **epi** is that of a side organ of the EPOrg with certain financial and organisational autonomy.

- the professional liability insurance (PLI) scheme for members is still available.
- the possibility for members of the Presidium to benefit from a liability insurance will be investigated.
- the process of selecting a software for the digitalized reimbursement of expenses is under way.
- WIPO/WEF Inventors Assist Program (IAP): discussion with WIPO and banks are ongoing to define the legal structure and the content of a contract between WIPO and **epi** on the administration of a regional fund for IAP in Europe. Activities will resume as soon as the health crisis allows.

9/ Report of the epi-Finances Committee

Mr Maikowski, the Chair of the **epi**-Finances Committee, reported that the financial situation of **epi** is excellent.

10/ Report of the Internal Auditors

The Internal Auditors suggested to review the cost centre structure and to optimize the allocation process, and to change the accounting year from the 1st of July of year X to the 30th June of year X+1 (instead of 1st January to 31st December of the same year).

The Internal Auditors also presented a motion to release the Treasurer from liability for the accounting year 2019. The motion was approved (128 votes for, 0 against, 5 abstentions).

Council also voted to release members of the previous Board from liability (127 votes for, 0 against, 6 abstentions).

11/ Situation of the 2020 Budget

The Treasurer explained that due to the Covid-19 pandemic, the income for 2020 will be lower than expected (essentially because since the EQE has been cancelled there will be no new members in 2020) whereas at the same time the expenses will be much lower than expected (substantial savings will be made on Council





and Committee meetings). At the end of June 2020, a planned excess of +30 k€ is foreseen. The Treasurer indicated that there was no need for the time being to amend the budget, which will be adapted if and as appropriate at the next Council meeting.

The Treasurer then mentioned that he intends to take into accounts some the remarks made by the Internal Auditors, notably with respect to improving the accuracy and timeliness of the accounting processes and to reviewing the cost account structures of **epi**.

12/ Election of Board Members

After a break, the meeting resumed and was chaired by Vice-President Kunič Tešović. The elections to the various positions of the Boards took place using a voting tool. The results of the elections are as follows.

President:

Mr Francis Leyder (BE)	52 votes
Mr João Pereira Da Cruz (PT)	47 votes
Mr Peter Thomsen (CH)	34 votes
Abstention	0

After this vote, Mr Tangena (NL) withdrew his candidacy for the position of Secretary General, and Mr Cees Mulder (NL) withdrew his candidacy for the position of Vice-President.

First Vice-President

Mr Baris Atalay (TR)	16 votes
Mr Bogoljub Ilievski (MK)	14 votes
Mr Paolo Rambelli (IT)	16 votes
Ms Heike Vogelsang-Wenke (DE)	90 votes
Abstention	0

Second Vice-President

Mr Baris Atalay (TR)	42 votes
Mr Bogoljub Ilievski (MK)	51 votes
Mr Paolo Rambelli (IT)	43 votes
Abstention	1

Secretary General

Mr Cornelis Mulder (NL)	79 votes
Abstention	52

After this vote, Mr Zsolt Szentpeteri (HU) withdrew his candidacy for the position of Treasurer.

Treasurer

Mr Peter Thomsen (CH)	121 votes
Abstention	14

Deputy Secretary General

Ms Magdalena Augustyniak (PL)	60 votes
Ms Brigitte Taravella (FR)	24 votes
Mr Tum Thach (MC)	8 votes
Mr Simon Wright (GB)	41 votes
Abstention	1

After this vote, Ms Magdalena Augustyniak (PL) withdrew her candidacy for the position of Deputy Treasurer.

Deputy Treasurer

Mr Zsolt Szentpeteri (HU)	81 votes
Mr Tum Thach (MC)	48 votes
Abstention	6

Re-elected President Leyder announced that Mr Ilievski will be his deputy for the first half of the Council term, and that Ms Vogelsang-Wenke will be his deputy for the second half.

13/ Election of members of the Disciplinary Committee

There was one candidate per country. All of them were elected (122 votes for, 0 against, 3 abstentions). The list of the members is available on the **epi** website (<https://patentepi.org/en/epi-bodies/the-disciplinary-committee.html>).

14/ Election of Internal Auditors

First auditor

Ms Mara Jankovic (RS)48 votes
Mr Hansjörg Kley (CH)80 votes
 Abstention.....6

Second auditor

Ms Mara Jankovic (RS)62 votes
Mr Philippe Conan (FR).....63 votes
 Abstention.....4

First substitute auditor

Mr Alexander Hedenetz (AT)60 votes
 Mr Bernd Kutsch (LU).....54 votes
 Abstention.....14

Second substitute auditor

Ms Larisa Fortuna (LV)50 votes
 Mr Bernd Kutsch (LU).....22 votes
 Mr Uros Plasva (RS)16 votes
 Mr Andreas Tannr (DE).....35 votes
 Abstention.....6

15/ Confirmation of terms of reference of existing Committees. Setting up of a new Committee

Council members confirmed the terms of reference of all existing Committees (117 votes for, 3 against, 6 abstentions).

A discussion followed regarding the creation of a new Committee, namely the IP Commercialization Committee (IPCC – see report of pre-meeting). Questions were asked about what this new Committee would in practice do for the benefit of members.

The following motions were then presented to Council.

a) Does Council agree to the setting up of a Committee dealing with IP commercialization?

In favour92 votes
 Against.....26 votes
 Abstention.....5

The required 2/3 majority of voting members was obtained

b) Does Council approve the terms of reference of the IPPC with the word “advise” being replaced by “deal with”?

In favour97 votes
 Against.....11 votes
 Abstention.....15

16/ Address by new President and closing of meeting

Newly re-elected President Leyder briefly addressed Council. He thanked the members of the outgoing Presidium for their involvement, and welcomed new Presidium members. President Leyder mentioned that the Committees are the lifeblood of **epi** and that the Presidium is looking forward to working with them. President Leyder thanked everyone who made the meeting a success: the BLC, the Legal Advisors, Mr Gray and all the Secretariat staff; and closed the meeting.

Autumn 2020 Council meeting by Videoconference

In view of the uncertainty created by the Covid-19 pandemic, the Presidium decided to cancel the physical Council meeting which was planned to take place in Ljubljana (SI) on 14 November 2020. Instead, an e-Council meeting will be organised on Friday afternoon 13 November and Saturday 14 November 2020.

During its autumn meeting, Council should decide the annual budget and the subscription for 2021.

As we are in an election year, Council should also elect the members of Committees, other than the Disciplinary Committee, for the 2020-2023 term of office. **epi** members are encouraged to become a member of a committee and to actively contribute to

the work of the committee. Enrolment as a candidate is possible on the **epi** website until 20 September.

The President of the EPO has promised to join the meeting; we are looking forward to his presentation followed by a lively discussion. In addition, time will be taken for other substantive issues such as the presentation and discussion of reports prepared by committees.

It is regretful that we cannot have physical Council meetings in 2020 because we all miss the social aspects and the networking that videoconferences cannot provide. Subject to the evolution of the pandemic, the spring 2021 Council meetings is being planned in Glasgow.