

Report from the 94th Council Meeting held in Malmö on 2nd and 3rd May 2023

M Névant (FR)

Traditionally on election years the Council meeting following the election is scheduled for 1 and a half days. This year was no exception to the rule contrary to what happened in 2020 due to the Covid-19 pandemic (the Council meeting was then scheduled for one day and held by videoconference).

The Presidium members at C94 were President Francis LEYDER (BE), Vice-Presidents Heike VOGELSANG-WENKE (DE) and Bogoljub ILIEVSKI (MK), Deputy Secretary General Magdalena AUGUSTYNIAK (PL) and Treasurer Peter THOMSEN (CH).



DAY 1

1/ Meeting opening

President Leyder opened the meeting at 9 am and welcomed the participants. A test vote was successfully conducted and scrutineers were appointed.

2/ Results of the election to Council and confirmation of the validity of the election by the President in office

Mr Müller, the Chair of the Electoral Committee, referred to his report in the accumulated file, and provided a summary of the exceptional circumstances surrounding the vote by members (the company administering the elections on behalf on **epi** is based in the UK where a postal strike impacted the dispatch of voting codes at the time they were sent out in January). The turnout for the election

was 27.1%, to be compared with 27.4% in 2020, 26.1% in 2017, 31.5% in 2014 and 39.1% in 2011.

President Leyder thanked the members of the Electoral Committee and informed Council members that no objections had been raised against the results of the election. President Leyder accordingly confirmed the validity of the election. The meeting was therefore duly constituted as the New Council.

3/ Adoption of the agenda

A few changes were made to the provisional agenda, and the revised agenda was adopted by 97% in favour and 3% against.

4/ Adoption of the minutes of the 93rd Council meeting – matters arising from the decisions and actions recorded during said meeting and previous Council and Board meetings

A few changes were made to the minutes of the last Council meeting which were then adopted by 97.5% in favour and 2.5% against. A reference was made to the accumulated file with respect to matters arising from the previous Council and Board meetings.

6/ Report of the President and Vice-Presidents

President Leyder referred to his report in the accumulated file, which also included activities of the Vice-Presidents. President Leyder also took stock of his time in office over the past 6 years, and thanked Board members for the work achieved and support during this time. President Leyder also introduced a video recording from the President of the EPO who addressed Council members.

7/ Report of the Secretary General

The Secretary General, Olga SIRAKOVA, who could not attend the meeting, addressed Council members via a recorded video in which she referred to her report in the accumulated file. The Secretary General especially thanked the Secretariat and her Deputy Magdalena AUGUSTYNIAK for their support during her term of office.



8/ Presentation of the annual report 2022 to be submitted to the members

The Annual Report 2022 was presented by the Chair of the Editorial Committee (yours truly), who thanked Tatjana LISSAK (Executive Director), Olga SIRAKOVA (Secretary General), Magdalena AUGUSTYNIAK (Deputy Secretary General) and Sadia LIEBIG (Secretariat) for their help and support in preparing the report.

The 2022 report was adopted by 97.5% in favour and 2.5% against.

9/ Report of the Executive Director

Executive Director Tatjana LISSAK reported on activities since the last Council meeting, with an emphasis on project management. With respect to IT projects, seventeen were completed since May 2022; seven are on-going, and three are pending. She advised that a penetration test had been carried out, which allowed identified deficiencies to be remedied.

Apart from IT, there is still a focus on compliance (accomplishments to date were highlighted) and on culture change (TEAM: Together Everyone Achieves More).

10/ Presentation of the annual accounts 2022 to be submitted to members

The Treasurer, Peter THOMSEN, presented the results of the 2022 accounting year. The overall financial result for 2022 is – 204k EUR which is about in line with a planned deficit of 193k EUR. The Treasurer noted that revenues were lower than expected (-18.3%), mostly due to a lower income from educational activities (deviation of – 310k EUR). Expenses were also lower than expected (-17.2%), explaining the slight deviation (compared to budget) in the overall result. The Treasurer fur-

ther noted that the inflation rate and the increase in energy cost in Germany had a significant impact on the costs incurred by the Secretariat. The Treasurer further noted that a significant increase in travel costs was seen on the occasion of the C93 meeting.

11/ Report of the epi-Finances Committee

The Chair of the **epi**-Finances Committee, Claude QUINTELIER, noted that it was not easy in 2021 to prepare the budget for 2022, and that the overall 2022 financial performance of **epi** was acceptably in line with the budgeted deficit. He explained that part of the deficit was due to the German bookkeeping rules (Handelsgesetzbuch, HGB), and informed Council members that discussions were undergoing with respect to the IP liability scheme available to members so that activities before the UPC could be also covered.

12/ Report of the Internal Auditors

The Auditors, Hansjörg KLEY and Philippe CONAN, were happy to report that there was nothing to report.





The Auditors also presented three motions.

Motion 1

Does Council agree:

- to approve the accounts for the accounting year 2022,
- to approve the administration of assets in the accounting year 2022, and
- to release the Treasurer and the Executive Director from liability for the accounting year 2022?

The motion was approved by 99% in favour and 1% against.

Motion 2

Does Council agree to amend Article 21 By-Laws as proposed?

The motion was approved by 95% in favour and 5% against.

Motion 3

Does Council agree to delete the terms of Reference of the Auditors?

The motion was approved by 97.5% in favour and 2.5% against.

13/ Decision on release of members of the Board, in particular the Treasurer, from liability.

Council voted in favour of releasing the Board, in particular the Treasurer, from liability (122 votes for (99%), 1 vote against (1%)).

14/ Information about the candidates for the Board

For this agenda item and the next one, President LEYDER delegated the chair of the meeting to Vice-President Bogoljub ILIEVSKI.

Each candidate was given 3 minutes to introduce themselves. The list of candidates was as follows:

For the position of President: Mr Peter THOMSEN (CH) and Ms Heike VOGELSANG-WENKE (DE).

For the positions of Vice-President: Mr Giuseppe COLUCCI (IT), Ms Katerina HARTVICOVA (CZ), Mr Tiem REIJNS (NL) and Mr Simon WRIGHT (UK).

For the position of Secretary General: Ms Magdalena AUGUSTYNIAK (PL) and Mr Francis LEYDER (BE).

For the position of Treasurer: Mr Zsolt SZENTPETERI (HU).

For the position of Deputy Secretary General: Ms Ann DE CLECQ and Mr Simon WRIGHT (GB).

For the position of Deputy Treasurer: Mr Marc NEVANT (FR) and Mr Tum THACH (MC).

A motion was then presented so that questions could be asked to candidates after all introductions have been made (NB: this item had not been included in the provisional agenda).

The motion was adopted with 2/3 of the votes cast (76 vs 38).

**** *Lunch break* ****

14/ Information about the candidates for the Board (continued)

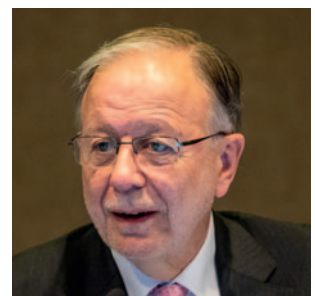
After the meeting resumed, questions were asked to candidates in respect of their nomination for the positions of President and Secretaries General.

15/ Election of the Board: President, two Vice-Presidents, Secretary General, Treasurer, Deputy Secretary General and Deputy Treasurer

The election to the various Board positions gave the following results.



Heike Vogelsang-Wenke
Outgoing Vice-President



Francis Leyder
Outgoing President

The new epi Board



Peter Thomsen,
epi President



Katerina Hartvichova,
epi Vice-President



Tiem Reijns
epi Vice-President



Magdalena Augustyniak
Secretary General



Ann De Clercq
Deputy Secretary General



Zsolt Szentpéteri
Treasurer



Andreas Winter
Deputy Treasurer

President

Mr Peter THOMSEN (CH)	76 votes
Ms Heike VOGELSANG-WENKE (DE)	52 votes

First Vice-President

Mr Giuseppe Colucci (IT)	25 votes
Ms Katerina HARTVICOVA (CZ)	66 votes
Mr Tiem REIJNS (NL)	22 votes
Mr Simon WRIGHT (UK)	16 votes

Second Vice-President

Mr Giuseppe Colucci (IT)	37 votes
Mr Tiem REIJNS (NL)	66 votes
Mr Simon WRIGHT (GB)	26 votes

At this point, Ms Heike VOGELSANG-WENKE indicated that she was candidate for the position of Secretary General, and Mr Francis LEYDER withdrew his candidacy for that position.

Secretary General

Ms Magdalena AUGUSTYNIK (PL)	66 votes
Ms Heike VOGELSANG-WENKE (DE)	61 votes

Treasurer

Mr Zsolt SZENTPETERI (HU)	118 votes
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Deputy Secretary General

Ms Ann DE CLERCQ (BE)	91 votes
Mr Simon Wright (GB)	38 votes

At this point, Mr Andreas WINTER (DE) declared that he was candidate for the position of Deputy Treasurer.

Deputy Treasurer

Mr Marc NEVANT (FR)	45 votes
Mr Tum Thach (MC)	34 votes
Mr Andreas WINTER (DE)	50 votes

Elected President Peter THOMSEN announced that Mr Tiem REIJNS will be his deputy for the first half of the Council term, and that Ms Katerina HARTVICOVA will be his deputy for the second half of the Council term.

16/ Amendment of the guidelines for reimbursement for travel expenses

The Deputy Treasurer, Zsolt SZENTPETERI, presented a revised version of the guidelines for the reimbursement of travel expenses, to become effective as of 1st September 2023.

The revised guidelines were approved by 93.2% in favour and 6.8% against.

17/ Report of the Treasurer, situation of the budget 2023

The Treasurer, Peter THOMSEN, reported that as of the end of March 2023, the accounting situation is rather in line with the budget, revenues being much higher than

expenses due to the fact that subscription fees are paid at the beginning of each accounting year. IT costs should be stabilized this year.

18/ epi event celebrating 50 years of EPC and amendment of the 2023 budget

2023 marks the 50th anniversary of the EPC, and the EPO will organize an official event mainly for representatives from member states.

The Presidium has thought that **epi** could also organize an event to celebrate the 50th anniversary of the EPC, the main target audience for such an event being the



160 **epi** members of the EQE Committees, who make the EQE possible through voluntary contribution of time and expertise to draft, check, carry out and finally mark each year the EQE. Hence inviting the **epi** members of the EQE Committees to the event would be a nice occasion to express the gratitude and recognition of our Institute for their work.

This event was not planned for in the Budget 2023 as approved by Council at C93, and it would represent an additional expense of about 120k EUR.

In addition, the Treasurer noted in view of recent developments, the following additional expenses will be required:

- 10k EUR to cover the programming costs for the upcoming Committee elections
- 5k EUR to increase the budget of the Harmonization Committee because of the unforeseeable work that became necessary due to the EPO organized symposia on Substantive Patent Law Harmonization
- 40k EUR to cover higher costs for the Council meetings, since accommodation and travel costs have significantly increased.

All suggested budget amendments would increase the planned overall deficit by 155k EUR from -371k EUR to -526k EUR. A decision was thus needed from Council in this respect.

The amended 2023 budget was approved with 82.6% in favour and 17.4% against.

19/ Update on the modernisation of the EQE

Tiem REIJNS, **epi** member on the EQE Examination Board (and newly elected Vice-President), reported on the progress made on the new EQE. The presentation is available on the **epi** Information website¹.

**** End of day 1 ****

DAY 2

20/ Committee reports

a) A substantial part of the morning was devoted to the report from the Harmonisation Committee, and the need for **epi** to reply to an EPO questionnaire on patent law harmonisation, including the grace period. **epi**'s position over the years is that the Institute is opposed to any kind of grace period, but could consider a grace period as a safety net as part of a harmonised system. It was thought that there is a need for a "Plan B" since a number of countries already have a grace period system in place, and that a grace period could be introduced through a Free Trade Agreement.

After lively exchanges on this topic, the following motions were submitted to Council.

Motion 1

Does Council agree that **epi** is opposed to any kind of grace period?

The motion was adopted with 72.5% in favour and 27.5% against.

Motion 2

Could Council however consider a grace period as a safety net as part of a harmonised system?

The motion was adopted with 81.0% in favour and 19.0% against.



¹ <https://patentepi.org/r/info-2302-17>



Motion 3

Does Council agree that Question 2 (reading “12 months are usually considered as an acceptable duration for a grace period. Do you agree?”) should be answered **“Yes if from the filing date”** and that Question 3 (reading “(where) should the grace period calculated from) should be answered **“The filing date only”**?

The motion was adopted with 88.6% in favour and 11.4% against.

b) A short report from EPPC highlighted the need for volunteers to comment on the EPO Strategic Plan 2028 and on various initiatives from the EU Commission.

c) The D&I Working Group requested permission from Council to continue their work until at least C95. This was approved with 86.8% in favour and 13.2% against.

21/ Election of Disciplinary Committee

After a report on the 2020-2023 activities given by the Chair of the Disciplinary Committee, Paul ROSENICH, members of the DC were elected. There were two candidates for Greece, and two for Montenegro, hence Council members had to elect first one candidate for GR and one candidate for ME. The results are as follows.

Greece

Mr Dimitrios KOUZELIS	47 votes
Mr Athanasios TSIMIKALIS	50 votes

Montenegro

Mr Mladen KOPRIVICA	39 votes
Mr Vuk LUTOVAC	44 votes

After this preliminary round, there was one candidate per country. All of them were elected (108 votes for, 4 against, 3 abstentions). The list of the members is available on the **epi** website (<https://patentepi.org/en/epi-bodies/the-disciplinary-committee.html>).

22/ Election of Auditors and their Deputies; by-election of Committee members

There were 4 candidates for the positions of Auditors and Deputy Auditors. They were all elected, and the list is available on the **epi** website (<https://patentepi.org/en/epi-bodies/auditors.html>).

In addition, Council elected a Greek member for PCC, a Swedish member for EPPC, and a substitute Hungarian member for LitCom. The updated list of Committee members is available on the **epi** website (<https://patentepi.org/en/epi-bodies/epi-committees>).

23/ Setting up and fixing the ToR of other Committees

Changes were proposed for the Terms of Reference (ToR) of the Professional Education Committee, in particular to broaden target audience for educational activities. These changes were unanimously approved. The revised ToR will be available soon on the **epi** website.

24/ Presentation and amendment of the procedures for the election of the members of other Committees

The Chair of the Committees Election Committee (CEC), Thomas MARX, presented the new procedure for the election of Committee members. In short, the election will start 6 weeks before the autumn Council meeting (of an election year) and will be carried out via a voting link. The CEC will then declare the results of the election and Council will then have to confirm these results. More information is available in this issue of **epi** Information.



A proposal to amend Rules 5 (paragraphs 4 and 5), 6 (paragraph 7), and 7 (paragraph 1.3) of the Rules for Committee elections, was presented to Council and approved with 98.2% in favour and 1.7% against.

25/ Address by new President and closing of meeting

Newly elected President THOMSEN briefly addressed Council and thanked the members of the outgoing Presidium for the work done. The meeting was then officially closed.