

66. Zakon o ratifikaciji Konvencije o podeljevanju evropskih patentov (MKPEP)

Na podlagi druge alinee prvega odstavka 107. člena in prvega odstavka 91. člena Ustave Republike Slovenije izdajam

U K A Z

O RAZGLASITVI ZAKONA O RATIFIKACIJI KONVENCIJE O PODELJEVANJU EVROPSKIH PATENTOV (MKPEP)

Razglasam Zakon o ratifikaciji Konvencije o podeljevanju evropskih patentov (MKPEP), ki ga je sprejel Državni zbor Republike Slovenije na seji 9. julija 2002.

Št. 001-22-88/02
Ljubljana, dne 17. julija 2000

Predsednik
Republike Slovenije
Milan Kučan l. r.

Z A K O N

O RATIFIKACIJI KONVENCIJE O PODELJEVANJU EVROPSKIH PATENTOV (MKPEP)

1. člen

Ratificira se:

- Konvencija o podeljevanju evropskih patentov (Evropska patentna konvencija) z dne 5. oktobra 1973, kot je bila spremenjena z aktom, s katerim je bil revidiran 63. člen Evropske patentne konvencije z dne 17. decembra 1991, in z odločitvami upravnega sveta Evropske patentne organizacije z dne 21. decembra 1978, 13. decembra 1994, 20. oktobra 1995, 5. decembra 1996 in 10. decembra 1998,
 - Protokol o razlagi 69. člena Konvencije z dne 5. oktobra 1973,
 - Protokol o centralizaciji in uvajanju evropskega patentnega sistema z dne 5. oktobra 1973,
 - Protokol o sodni pristojnosti in priznanju odločitev o pravici do podelitve evropskega patenta z dne 5. oktobra 1973,
 - Protokol o privilegijih in imunitetah Evropske patentne organizacije z dne 5. oktobra 1973,
 - Sporazum o uporabi 65. člena Konvencije o podeljevanju evropskih patentov z dne 17. oktobra 2000
- in
- Akt, s katerim se revidira konvencija o podeljevanju evropskih patentov z dne 29. novembra 2000.

2. člen

Besedila aktov iz 1. člena se v izvorniku v angleškem jeziku in v prevodu v slovenskem jeziku glasijo:

**CONVENTION
ON THE GRANT OF EUROPEAN PATENTS
(EUROPEAN PATENT CONVENTION)**

of 5 October 1973

text as amended by the act revising Article 63 EPC of 17 December 1991 and by decisions of the Administrative Council of the European Patent Organisation of 21 December 1978, 13 December 1994, 20 October 1995, 5 December 1996 and 10 December 1998

PREAMBLE

The Contracting States,
DESIRING to strengthen co-operation between the States of Europe in respect of the protection of inventions,
DESIRING that such protection may be obtained in those States by a single procedure for the grant of patents and by the establishment of certain standard rules governing patents so granted,

DESIRING, for this purpose, to conclude a Convention which establishes a European Patent Organisation and which constitutes a special agreement within the meaning of Article 19 of the Convention for the Protection of Industrial Property, signed in Paris on 20 March 1883 and last revised on 14 July 1967, and a regional patent treaty within the meaning of Article 45, paragraph 1, of the Patent Cooperation Treaty of 19 June 1970,

HAVE AGREED on the following provisions:

PART I

GENERAL AND INSTITUTIONAL PROVISIONS

Chapter I
General provisions

Article 1

European law for the grant of patents

A system of law, common to the Contracting States, for the grant of patents for invention is hereby established.

Article 2

European patent

(1) Patents granted by virtue of this Convention shall be called European patents.

(2) The European patent shall, in each of the Contracting States for which it is granted, have the effect of and be subject to the same conditions as a national patent granted by that State, unless otherwise provided in this Convention.

Article 3

Territorial effect

The grant of a European patent may be requested for one or more of the Contracting States.

Article 4

European Patent Organisation

(1) A European Patent Organisation, hereinafter referred to as the Organisation, is established by this Convention. It shall have administrative and financial autonomy.

**KONVENCIJA
O PODELJEVANJU EVROPSKIH PATENTOV
(EVROPSKA PATENTNA KONVENCIJA)**

z dne 5. oktobra 1973,

kot je bila spremenjena z aktom, s katerim je bil spremenjen 63. člen Evropske patentne konvencije z dne 17. decembra 1991, in z odločitvami upravnega sveta Evropske patentne organizacije z dne 21. decembra 1978, 13. decembra 1994, 20. oktobra 1995, 5. decembra 1996 in 10. decembra 1998

UVOD

Države pogodbenice so se
v želji, da okrepijo sodelovanje med evropskimi državami glede varstva izumov,

v želji, da bi bilo v teh državah tako varstvo mogoče pridobiti z enim samim postopkom za podeljevanje patentov in z uvedbo nekaterih standardnih predpisov, ki urejajo tako podeljene patente,

v želji, da za to sklenejo konvencijo, s katero se ustanovi Evropska patentna organizacija in ki je poseben sporazum po 19. členu Konvencije za varstvo industrijske lastnine, podpisane v Parizu 20. marca 1883 in zadnjič revidirane 14. julija 1967, ter pogodbo o regionalnem patentu v smislu prvega odstavka 45. člena Pogodbe o sodelovanju na področju patentov z dne 19. junija 1970,

sporazumele o naslednjih določbah:

I. DEL

SPLOŠNE IN ORGANIZACIJSKE DOLOČBE

I. poglavje
Splošne določbe

1. člen

Evropsko pravo za podeljevanje patentov

S to konvencijo se vzpostavi pravni sistem za podeljevanje patentov za izume, ki je skupen državam pogodbenicam.

2. člen

Evropski patent

(1) Patenti, ki so podeljeni na podlagi te konvencije, se imenujejo evropski patenti.

(2) Evropski patent ima v vsaki državi pogodbenici, za katero je podeljen, enak učinek kot državni patent, ki ga podeli ta država, in zanj veljajo enaki pogoji, razen če ta konvencija ne določa drugače.

3. člen

Ozemeljska veljavnost

Podelitev evropskega patenta se lahko zahteva za eno ali več držav pogodbenic.

4. člen

Evropska patentna organizacija

(1) S to konvencijo se ustanovi Evropska patentna organizacija, v nadaljevanju imenovana Organizacija. Ta je upravno in finančno samostojna.

- (2) The organs of the Organisation shall be:
 (a) a European Patent Office;
 (b) an Administrative Council.
 (3) The task of the Organisation shall be to grant European patents. This shall be carried out by the European Patent Office supervised by the Administrative Council.

Chapter II
The European Patent Organisation

Article 5
 Legal status

- (1) The Organisation shall have legal personality.
 (2) In each of the Contracting States, the Organisation shall enjoy the most extensive legal capacity accorded to legal persons under the national law of that State; it may in particular acquire or dispose of movable and immovable property and may be a party to legal proceedings.
 (3) The President of the European Patent Office shall represent the Organisation.

Article 6
 Seat

- (1) The Organisation shall have its seat at Munich.
 (2) The European Patent Office shall be set up at Munich. It shall have a branch at The Hague.

Article 7

Sub-offices of the European Patent Office

By decision of the Administrative Council, suboffices of the European Patent Office may be created if need be, for the purpose of information and liaison, in the Contracting States and with inter-governmental organisations in the field of industrial property, subject to the approval of the Contracting State or organisation concerned.

Article 8
 Privileges and immunities

The Protocol on Privileges and Immunities annexed to this Convention shall define the conditions under which the Organisation, the members of the Administrative Council, the employees of the European Patent Office and such other persons specified in that Protocol as take part in the work of the Organisation, shall enjoy, in the territory of each Contracting State, the privileges and immunities necessary for the performance of their duties.

Article 9
 Liability

- (1) The contractual liability of the Organisation shall be governed by the law applicable to the relevant contract.
 (2) The non-contractual liability of the Organisation in respect of any damage caused by it or by the employees of the European Patent Office in the performance of their duties shall be governed by the provisions of the law of the Federal Republic of Germany. Where the damage is caused by the branch at The Hague or a sub-office or employees attached thereto, the provisions of the law of the Contracting State in which such branch or sub-office is located shall apply.
 (3) The personal liability of the employees of the European Patent Office towards the Organisation shall be laid down in their Service Regulations or conditions of employment.

- (2) Organa Organizacije sta:
 (a) Evropski patentni urad,
 (b) upravni svet.
 (3) Naloga Organizacije je podeljevanje evropskih patentov. To nalogo opravlja Evropski patentni urad pod nadzorstvom upravnega sveta.

II. poglavje
Evropska patentna organizacija

5. člen
 Pravni položaj

- (1) Organizacija je pravna oseba.
 (2) V vsaki državi pogodbenici ima Organizacija najširšo pravno sposobnost, ki jo ta država po državnem pravu priznava pravnim osebam; zlasti sme pridobiti ali odsvojiti premičnine in nepremičnine ter biti stranka v pravnem postopku.
 (3) Organizacijo zastopa predsednik Evropskega patentnega urada.

6. člen
 Sedež

- (1) Organizacija ima sedež v Münchnu.
 (2) Evropski patentni urad se ustanovi v Münchnu. Podružnico ima v Haagu.

7. člen

Izpostave Evropskega patentnega urada

Z odločitvijo upravnega sveta se lahko v državah pogodbenicah in pri medvladnih organizacijah s področja industrijske lastnine za obveščanje in povezavo po potrebi ustanovijo izpostave Evropskega patentnega urada, in sicer ob soglasju države pogodbenice ali organizacije, ki jo to zadeva.

8. člen
 Privilegiji in imunitete

Protokol o privilegijih in imunitetah, ki je priloga k tej konvenciji, določa pogoje, pod katerimi imajo Organizacija, člani upravnega sveta, uslužbenci Evropskega patentnega urada in druge osebe, navedene v protokolu, ki sodelujejo pri delu Organizacije, na ozemlju vsake države pogodbenice privilegije in imunitete, ki so potrebni za opravljanje njihovih nalog.

9. člen
 Odgovornost

- (1) Pogodbena odgovornost Organizacije ureja pravo, ki velja za ustrezno pogodbo.
 (2) Nepogodbena odgovornost Organizacije za škodo, ki jo povzroči sama ali uslužbenci Evropskega patentnega urada pri opravljanju svojih nalog, urejajo zakonski predpisi Zvezne republike Nemčije. Kadar škodo povzroči podružnica v Haagu ali izpostava oziroma njuni uslužbenci, se uporabljajo zakonski predpisi države pogodbenice, v kateri je ta podružnica ali izpostava.
 (3) Osebnostna odgovornost uslužbencev Evropskega patentnega urada do Organizacije določajo njihova pravila službovanja ali pogoji zaposlovanja.

(4) The courts with jurisdiction to settle disputes under paragraphs 1 and 2 shall be:

(a) for disputes under paragraph 1, the courts of competent jurisdiction in the Federal Republic of Germany, unless the contract concluded between the parties designates the courts of another State;

(b) for disputes under paragraph 2, either the courts of competent jurisdiction in the Federal Republic of Germany, or the courts of competent jurisdiction in the State in which the branch or sub-office is located.

Chapter III The European Patent Office

Article 10

Direction

(1) The European Patent Office shall be directed by the President who shall be responsible for its activities to the Administrative Council.

(2) To this end, the President shall have in particular the following functions and powers:

(a) he shall take all necessary steps, including the adoption of internal administrative instructions and the publication of guidance for the public, to ensure the functioning of the European Patent Office;

(b) in so far as this Convention contains no provisions in this respect, he shall prescribe which transactions are to be carried out at the European Patent Office at Munich and its branch at The Hague respectively;

(c) he may place before the Administrative Council any proposal for amending this Convention and any proposal for general regulations or decisions which come within the competence of the Administrative Council;

(d) he shall prepare and implement the budget and any amending or supplementary budget;

(e) he shall submit a management report to the Administrative Council each year;

(f) he shall exercise supervisory authority over the personnel;

(g) subject to the provisions of Article 11, he shall appoint and promote the employees;

(h) he shall exercise disciplinary authority over the employees other than those referred to in Article 11, and may propose disciplinary action to the Administrative Council with regard to employees referred to in Article 11, paragraphs 2 and 3;

(i) he may delegate his functions and powers.

(3) The President shall be assisted by a number of Vice-Presidents. If the President is absent or indisposed, one of the Vice-Presidents shall take his place in accordance with the procedure laid down by the Administrative Council.

Article 11

Appointment of senior employees

(1) The President of the European Patent Office shall be appointed by decision of the Administrative Council.

(2) The Vice-Presidents shall be appointed by decision of the Administrative Council after the President has been consulted.

(3) The members, including the Chairmen, of the Boards of Appeal and of the Enlarged Board of Appeal shall be appointed by decision of the Administrative Council, taken on a proposal from the President of the European Patent Office. They may be re-appointed by decision of the Administrative Council after the President of the European Patent Office has been consulted.

(4) Sodišča, pristojna za reševanje sporov po prvem in drugem odstavku, so:

(a) za spore po prvem odstavku sodišča ustrezne pristojnosti v Zvezni republiki Nemčiji, razen če so v pogodbi, sklenjeni med strankama, imenovana sodišča druge države;

(b) za spore po drugem odstavku sodišča ustrezne pristojnosti v Zvezni republiki Nemčiji ali sodišča ustrezne pristojnosti v državi, v kateri je podružnica ali izpostava.

III. poglavje Evropski patentni urad

10. člen

Vodenje

(1) Evropski patentni urad vodi predsednik, ki je za njegove dejavnosti odgovoren upravnemu svetu.

(2) V ta namen ima predsednik predvsem naslednje naloge in pooblastila:

(a) sprejema vse potrebne ukrepe za zagotovitev delovanja Evropskega patentnega urada, vključno s sprejetjem notranjih upravnih navodil in objavljanjem navodil za javnost;

(b) predpisuje, katera dejanja je treba opraviti pri Evropskem patentnem uradu v Münchnu oziroma pri njegovi podružnici v Haagu, če ta konvencija ne vsebuje ustreznih določb;

(c) upravnemu svetu lahko predloži predlog za sprejemanje te konvencije in predlog za splošne predpise ali odločitve, ki so v pristojnosti upravnega sveta;

(d) pripravlja in izvršuje proračun in njegove spremembe ali dodatni proračun;

(e) vsako leto predloži upravnemu svetu poročilo o delu;

(f) nadzoruje delo osebja;

(g) ob upoštevanju določb 11. člena imenuje uslužbenca in odloča o njihovem napredovanju;

(h) disciplinsko ukrepa zoper uslužbenca, razen zoper tiste iz 11. člena, in lahko predlaga upravnemu svetu disciplinske ukrepe zoper uslužbenca iz drugega in tretjega odstavka 11. člena;

(i) svoje naloge in pooblastila lahko prenaša.

(3) Predsedniku pomaga več podpredsednikov. Če je predsednik odsoten ali zadržan, prevzame njegovo mesto eden od podpredsednikov v skladu s postopkom, ki ga določi upravni svet.

11. člen

Imenovanje vodilnih uslužbencev

(1) Predsednika Evropskega patentnega urada imenuje s sklepom upravni svet.

(2) Podpredsednike imenuje s sklepom upravni svet po posvetu s predsednikom.

(3) Člane in predsedujoče pritožbenih senatov in razširjenega pritožbenega senata imenuje s sklepom upravni svet na predlog predsednika Evropskega patentnega urada. Upravni svet jih lahko s sklepom ponovno imenuje po posvetu s predsednikom Evropskega patentnega urada.

(4) The Administrative Council shall exercise disciplinary authority over the employees referred to in paragraphs 1 to 3.

Article 12
Duties of office

The employees of the European Patent Office shall be bound, even after the termination of their employment, neither to disclose nor to make use of information which by its nature is a professional secret.

Article 13

Disputes between the Organisation and the employees of the European Patent Office

(1) Employees and former employees of the European Patent Office or their successors in title may apply to the Administrative Tribunal of the International Labour Organisation in the case of disputes with the European Patent Organisation in accordance with the Statute of the Tribunal and within the limits and subject to the conditions laid down in the Service Regulations for permanent employees or the Pension Scheme Regulations or arising from the conditions of employment of other employees.

(2) An appeal shall only be admissible if the person concerned has exhausted such other means of appeal as are available to him under the Service Regulations, the Pension Scheme Regulations or the conditions of employment, as the case may be.

Article 14

Languages of the European Patent Office

(1) The official languages of the European Patent Office shall be English, French and German. European patent applications must be filed in one of these languages.

(2) However, natural or legal persons having their residence or principal place of business within the territory of a Contracting State having a language other than English, French or German as an official language, and nationals of that State who are resident abroad, may file European patent applications in an official language of that State. Nevertheless, a translation in one of the official languages of the European Patent Office must be filed within the time limit prescribed in the Implementing Regulations; throughout the proceedings before the European Patent Office, such translation may be brought into conformity with the original text of the application.

(3) The official language of the European Patent Office in which the European patent application is filed or, in the case referred to in paragraph 2, that of the translation, shall be used as the language of the proceedings in all proceedings before the European Patent Office concerning the application or the resulting patent, unless otherwise provided in the Implementing Regulations.

(4) The persons referred to in paragraph 2 may also file documents which have to be filed within a time limit in an official language of the Contracting State concerned. They must however file a translation in the language of the proceedings within the time limit prescribed in the Implementing Regulations; in the cases provided for in the Implementing Regulations, they may file a translation in a different official language of the European Patent Office.

(5) If any document, other than those making up the European patent application, is not filed in the language prescribed by this Convention, or if any translation required by virtue of this Convention is not filed in due time, the document shall be deemed not to have been received.

(4) Upravni svet disciplinsko ukrepa zoper uslužbenca iz prvega do tretjega odstavka.

12. člen

Uradne dolžnosti

Uslužbenci Evropskega patentnega urada ne smejo, niti po prenehanju zaposlitve, razkrivati ali uporabljati informacij, ki so po svoji naravi poklicna skrivnost.

13. člen

Spori med Organizacijo in uslužbenci Evropskega patentnega urada

(1) Uslužbenci in nekdanji uslužbenci Evropskega patentnega urada ali njihovi pravni nasledniki se lahko v sporih z Evropsko patentno organizacijo obrnejo na upravno sodišče Mednarodne organizacije dela v skladu s statutom tega sodišča in v mejah ter pod pogoji, ki jih določajo pravila službovanja za stalno zaposlene ali pravilnik o pokojninah ali ki izhajajo iz pogojev zaposlovanja za druge uslužbenca.

(2) Pritožba je dopustna le, če je prizadeta oseba izčrpala vsa pritožbena sredstva, ki so ji na voljo po službenem pravilniku, pravilniku o pokojninah oziroma o pogojih zaposlovanja.

14. člen

Jeziki Evropskega patentnega urada

(1) Uradni jeziki Evropskega patentnega urada so angleški, francoski in nemški. Evropske patentne prijave morajo biti vložene v enem od teh jezikov.

(2) Fizične ali pravne osebe, ki imajo prebivališče ali sedež podjetja na ozemlju države pogodbenice, v kateri angleški, francoski ali nemški jezik ni uradni jezik, in državljani te države, ki imajo prebivališče v tujini, lahko vložijo evropske patentne prijave v uradnem jeziku te države. Vendar morajo v roku, predpisanem v pravilniku o izvajanju, vložiti prevod v enem od uradnih jezikov Evropskega patentnega urada; tak prevod se lahko usklajuje z izvirnim besedilom prijave ves čas postopka pri Evropskem patentnem uradu.

(3) Uradni jezik Evropskega patentnega urada, v katerem je vložena evropska patentna prijava, ali jezik prevoda v primeru iz drugega odstavka se uporablja kot jezik postopka v vseh postopkih pri Evropskem patentnem uradu v zvezi s prijavo ali na njeni podlagi podeljenim patentom, razen če ni v pravilniku o izvajanju drugače določeno.

(4) Osebe iz drugega odstavka lahko vložijo dokumente, ki jih je treba vložiti v roku, tudi v uradnem jeziku države pogodbenice. Vendar morajo v roku, predpisanem v pravilniku o izvajanju, vložiti prevod v jeziku postopka; v primerih, predvidenih v pravilniku o izvajanju, lahko vložijo prevod tudi v katerem od drugih uradnih jezikov Evropskega patentnega urada.

(5) Če dokument, ki ni sestavni del evropske patentne prijave, ni vložen v jeziku, predpisanem s to konvencijo, ali če prevod, ki se zahteva po tej konvenciji, ni vložen pravočasno, se šteje, da dokument ni bil prejet.

(6) European patent applications shall be published in the language of the proceedings.

(7) The specifications of European patents shall be published in the language of the proceedings; they shall include a translation of the claims in the two other official languages of the European Patent Office.

(8) There shall be published in the three official languages of the European Patent Office:

- (a) the European Patent Bulletin;
- (b) the Official Journal of the European Patent Office.

(9) Entries in the Register of European Patents shall be made in the three official languages of the European Patent Office. In cases of doubt, the entry in the language of the proceedings shall be authentic.

Article 15

The departments charged with the procedure

For implementing the procedures laid down in this Convention, there shall be set up within the European Patent Office:

- (a) a Receiving Section;
- (b) Search Divisions;
- (c) Examining Divisions;
- (d) Opposition Divisions;
- (e) a Legal Division;
- (f) Boards of Appeal;
- (g) an Enlarged Board of Appeal.

Article 16

Receiving Section

The Receiving Section shall be in the branch at The Hague. It shall be responsible for the examination on filing and the examination as to formal requirements of each European patent application up to the time when a request for examination has been made or the applicant has indicated under Article 96, paragraph 1, that he desires to proceed further with his application. It shall also be responsible for the publication of the European patent application and of the European search report.

Article 17

Search Divisions

The Search Divisions shall be in the branch at The Hague. They shall be responsible for drawing up European search reports.

Article 18

Examining Divisions

(1) An Examining Division shall be responsible for the examination of each European patent application from the time when the Receiving Section ceases to be responsible.

(2) An Examining Division shall consist of three technical examiners. Nevertheless, the examination prior to a final decision shall, as a general rule, be entrusted to one member of the Division. Oral proceedings shall be before the Examining Division itself. If the Examining Division considers that the nature of the decision so requires, it shall be enlarged by the addition of a legally qualified examiner. In the event of parity of votes, the vote of the Chairman of the Division shall be decisive.

Article 19

Opposition Divisions

(1) An Opposition Division shall be responsible for the examination of oppositions against any European patent.

(6) Evropske patentne prijave se objavijo v jeziku postopka.

(7) Evropski patentni spisi se objavijo v jeziku postopka in vsebujejo prevod patentnih zahtevkov v drugih dveh uradnih jezikih Evropskega patentnega urada.

(8) V treh uradnih jezikih Evropskega patentnega urada se objavljata:

- (a) Evropski patentni bilten,
- (b) Uradno glasilo Evropskega patentnega urada.

(9) Vpisi v evropski patentni register so v treh uradnih jezikih Evropskega patentnega urada. Če obstaja dvom, je verodostojen vpis v jeziku postopka.

15. člen

Službe, ki so odgovorne za postopek

Za izvajanje postopkov, določenih v tej konvenciji, se v Evropskem patentnem uradu ustanovijo:

- (a) sprejemna pisarna,
- (b) oddelki za poizvedbe,
- (c) oddelki za preizkuse,
- (d) oddelki za ugovore,
- (e) pravni oddelek,
- (f) pritožbeni senati,
- (g) razširjeni pritožbeni senat.

16. člen

Sprejemna pisarna

Sprejemna pisarna je v podružnici v Haagu. Odgovorna je za preizkus evropske patentne prijave ob vložitvi in za preizkus glede formalnih zahtev, dokler ni predložena zahteva za preizkus ali dokler prijavitelj na podlagi prvega odstavka 96. člena ne izrazi želje, da se postopek z njegovo prijavo nadaljuje. Odgovorna je tudi za objavo evropske patentne prijave in evropskega poročila o poizvedbi.

17. člen

Oddelki za poizvedbe

Oddelki za poizvedbe so v podružnici v Haagu. Odgovorni so za sestavo evropskih poročil o poizvedbi.

18. člen

Oddelki za preizkuse

(1) Oddelek za preizkuse je odgovoren za preizkus evropskih patentnih prijav od trenutka, ko preneha odgovornost sprejemne pisarne.

(2) Oddelek za preizkuse sestavljajo trije preizkuševalci tehniki. Pred končno odločitvijo je preizkus praviloma zupan enemu preizkuševalcu v oddelku. Ustni postopek se opravi pri samem oddelku za preizkuse. Oddelek za preizkuse se razširi s preizkuševalcem pravnikom, če meni, da to zahteva narava odločitve. Če je število glasov za in proti enako, je odločilen glas predsedujočega v oddelku.

19. člen

Oddelki za ugovore

(1) Oddelek za ugovore je odgovoren za preizkus ugovorov zoper evropske patente.

(2) An Opposition Division shall consist of three technical examiners, at least two of whom shall not have taken part in the proceedings for grant of the patent to which the opposition relates. An examiner who has taken part in the proceedings for the grant of the European patent shall not be the Chairman. Prior to the taking of a final decision on the opposition, the Opposition Division may entrust the examination of the opposition to one of its members. Oral proceedings shall be before the Opposition Division itself. If the Opposition Division considers that the nature of the decision so requires, it shall be enlarged by the addition of a legally qualified examiner who shall not have taken part in the proceedings for grant of the patent. In the event of parity of votes, the vote of the Chairman of the Division shall be decisive.

Article 20

Legal Division

(1) The Legal Division shall be responsible for decisions in respect of entries in the Register of European Patents and in respect of registration on, and deletion from, the list of professional representatives.

(2) Decisions of the Legal Division shall be taken by one legally qualified member.

Article 21

Boards of Appeal

(1) The Boards of Appeal shall be responsible for the examination of appeals from the decisions of the Receiving Section, Examining Divisions, Opposition Divisions and of the Legal Division.

(2) For appeals from a decision of the Receiving Section or the Legal Division, a Board of Appeal shall consist of three legally qualified members.

(3) For appeals from a decision of an Examining Division, a Board of Appeal shall consist of:

(a) two technically qualified members and one legally qualified member, when the decision concerns the refusal of a European patent application or the grant of a European patent and was taken by an Examining Division consisting of less than four members;

(b) three technically qualified members and two legally qualified members, when the decision was taken by an Examining Division consisting of four members or when the Board of Appeal considers that the nature of the appeal so requires;

(c) three legally qualified members in all other cases.

(4) For appeals from a decision of an Opposition Division, a Board of Appeal shall consist of:

(a) two technically qualified members and one legally qualified member, when the decision was taken by an Opposition Division consisting of three members;

(b) three technically qualified members and two legally qualified members, when the decision was taken by an Opposition Division consisting of four members or when the Board of Appeal considers that the nature of the appeal so requires.

Article 22

Enlarged Board of Appeal

(1) The Enlarged Board of Appeal shall be responsible for:

(a) deciding points of law referred to it by Boards of Appeal;

(b) giving opinions on points of law referred to it by the President of the European Patent Office under the conditions laid down in Article 112.

(2) Oddelek za ugovore sestavljajo trije preizkuševalci tehniki, od katerih vsaj dva nista sodelovala v postopku za podelitev patenta, na katerega se nanaša ugovor. Preizkuševalec, ki je sodeloval v postopku za podelitev evropskega patenta, ne sme biti predsedujoči. Pred končno odločitvijo o ugovoru lahko oddelek za ugovore zaupa preizkus ugovora enemu od svojih članov. Ustni postopek se opravi pri samem oddelku za ugovore. Oddelek za ugovore se razširi s preizkuševalcem pravnikom, ki ni sodeloval v postopku za podelitev patenta, če meni, da to zahteva narava odločitve. Če je število glasov za in proti enako, je odločilen glas predsedujočega v oddelku.

20. člen

Pravni oddelek

(1) Pravni oddelek je odgovoren za odločitve v zvezi z vpisi v evropski patentni register ter v zvezi z vpisi v seznam registriranih zastopnikov in izbrisi iz njega.

(2) Odločitve pravnega oddelka sprejema njegov član pravnik.

21. člen

Pritožbeni senati

(1) Pritožbeni senati so odgovorni za preizkus pritožb zoper odločitve sprejemne pisarne, oddelkov za preizkuse, oddelkov za ugovore in pravnega oddelka.

(2) Za pritožbe zoper odločitve sprejemne pisarne ali pravnega oddelka sestavljajo pritožbeni senat trije člani pravniki.

(3) Za pritožbe zoper odločitve oddelka za preizkuse sestavljajo pritožbeni senat:

(a) dva člana tehnika in član pravnik, kadar se odločitev nanaša na zavrnitev evropske patentne prijave ali na podelitev evropskega patenta in jo je sprejel oddelek za preizkuse, ki so ga sestavljali manj kot štirje člani;

(b) trije člani tehniki in dva člana pravnika, kadar je odločitev sprejel oddelek za preizkuse, ki so ga sestavljali štirje člani, ali kadar pritožbeni senat meni, da to zahteva narava pritožbe;

(c) trije člani pravniki v vseh drugih primerih.

(4) Za pritožbe zoper odločitve oddelka za ugovore sestavljajo pritožbeni senat:

(a) dva člana tehnika in član pravnik, kadar je odločitev sprejel oddelek za ugovore, ki so ga sestavljali trije člani;

(b) trije člani tehniki in dva člana pravnika, kadar je odločitev sprejel oddelek za ugovore, ki so ga sestavljali štirje člani, ali kadar pritožbeni senat meni, da to zahteva narava pritožbe.

22. člen

Razširjeni pritožbeni senat

(1) Razširjeni pritožbeni senat je odgovoren za:

(a) odločanje o pravnih vprašanjih, ki so mu jih predložili pritožbeni senati;

(b) dajanje mnenj o pravnih vprašanjih, ki mu jih je predložil predsednik Evropskega patentnega urada pod pogoji iz 112. člena.

(2) For giving decisions or opinions, the Enlarged Board of Appeal shall consist of five legally qualified members and two technically qualified members. One of the legally qualified members shall be the Chairman.

Article 23

Independence of the members of the Boards

(1) The members of the Enlarged Board of Appeal and of the Boards of Appeal shall be appointed for a term of five years and may not be removed from office during this term, except if there are serious grounds for such removal and if the Administrative Council, on a proposal from the Enlarged Board of Appeal, takes a decision to this effect.

(2) The members of the Boards may not be members of the Receiving Section, Examining Divisions, Opposition Divisions or of the Legal Division.

(3) In their decisions the members of the Boards shall not be bound by any instructions and shall comply only with the provisions of this Convention.

(4) The Rules of Procedure of the Boards of Appeal and the Enlarged Board of Appeal shall be adopted in accordance with the provisions of the Implementing Regulations. They shall be subject to the approval of the Administrative Council.

Article 24

Exclusion and objection

(1) Members of the Boards of Appeal or of the Enlarged Board of Appeal may not take part in any appeal if they have any personal interest therein, if they have previously been involved as representatives of one of the parties, or if they participated in the decision under appeal.

(2) If, for one of the reasons mentioned in paragraph 1, or for any other reason, a member of a Board of Appeal or of the Enlarged Board of Appeal considers that he should not take part in any appeal, he shall inform the Board accordingly.

(3) Members of a Board of Appeal or of the Enlarged Board of Appeal may be objected to by any party for one of the reasons mentioned in paragraph 1, or if suspected of partiality. An objection shall not be admissible if, while being aware of a reason for objection, the party has taken a procedural step. No objection may be based upon the nationality of members.

(4) The Boards of Appeal and the Enlarged Board of Appeal shall decide as to the action to be taken in the cases specified in paragraphs 2 and 3 without the participation of the member concerned. For the purposes of taking this decision the member objected to shall be replaced by his alternate.

Article 25

Technical opinion

At the request of the competent national court trying an infringement or revocation action, the European Patent Office shall be obliged, against payment of an appropriate fee, to give a technical opinion concerning the European patent which is the subject of the action. The Examining Division shall be responsible for the issue of such opinions.

(2) Za odločanje ali dajanje mnenj sestavlja razširjeni pritožbeni senat pet članov pravnikov in dva člana tehnika. Eden od članov pravnikov je predsedujoči.

23. člen

Neodvisnost članov senatov

(1) Člani razširjenega pritožbenega senata in pritožbenih senatov se imenujejo za dobo petih let in v tem obdobju ne morejo biti odstavljene s te funkcije, razen če ni resnih razlogov za odstavitev in če tako odloči upravni svet na predlog razširjenega pritožbenega senata.

(2) Člani senatov ne morejo biti člani sprejemne pisarne, oddelkov za preizkuse, oddelkov za ugovore ali pravne oddelka.

(3) Člani senatov pri odločanju niso zavezani z nobenimi navodili in se ravnaajo le po določbah te konvencije.

(4) Poslovniki pritožbenih senatov in razširjenega pritožbenega senata se sprejemajo v skladu z določbami pravilnika o izvajanju. Odobriti jih mora upravni svet.

24. člen

Izločitev in nasprotovanje

(1) Člani pritožbenih senatov ali razširjenega pritožbenega senata ne smejo sodelovati pri reševanju pritožbe, če imajo v zvezi s tem kakršen koli osebni interes, če so bili predhodno zastopniki ene od strank ali če so sodelovali pri odločitvi, zoper katero je vložena pritožba.

(2) Če član pritožbenega senata ali razširjenega pritožbenega senata zaradi enega od razlogov iz prvega odstavka ali katerega koli drugega razloga meni, da ne sme sodelovati pri reševanju pritožbe, o tem obvesti senat.

(3) Članom pritožbenega senata ali razširjenega pritožbenega senata lahko nasprotuje vsaka stranka zaradi enega od razlogov iz prvega odstavka ali zaradi domneve o njihovi pristranosti. Nasprotovanje ni dopustno, če je stranka že opravila kako postopkovno dejanje, čeprav se je zavedala razloga za nasprotovanje. Nasprotovanje ne sme temeljiti na državljanstvu članov.

(4) Pritožbeni senati in razširjeni pritožbeni senat odločajo o tem, kako bodo ukrepali v primerih iz drugega in tretjega odstavka, brez sodelovanja prizadetega člana. Pri sprejemanju take odločitve nadomesti člana, ki se mu nasprotuje, njegov namestnik.

25. člen

Strokovno mnenje

Na zahtevo pristojnega državnega sodišča, ki vodi postopek glede kršitve ali razveljavitve patenta, mora Evropski patentni urad za plačilo ustrezne pristojbine dati strokovno mnenje v zvezi z obravnavanim evropskim patentom. Za izdajanje takih mnenj je odgovoren oddelek za preizkuse.

Chapter IV
The Administrative Council

Article 26
Membership

(1) The Administrative Council shall be composed of the Representatives and the alternate Representatives of the Contracting States. Each Contracting State shall be entitled to appoint one Representative and one alternate Representative to the Administrative Council.

(2) The members of the Administrative Council may, subject to the provisions of its Rules of Procedure, be assisted by advisers or experts.

Article 27
Chairmanship

(1) The Administrative Council shall elect a Chairman and a Deputy Chairman from among the Representatives and alternate Representatives of the Contracting States. The Deputy Chairman shall ex officio replace the Chairman in the event of his being prevented from attending to his duties.

(2) The duration of the terms of office of the Chairman and the Deputy Chairman shall be three years. The terms of office shall be renewable.

Article 28
Board

(1) When there are at least eight Contracting States, the Administrative Council may set up a Board composed of five of its members.

(2) The Chairman and the Deputy Chairman of the Administrative Council shall be members of the Board ex officio; the other three members shall be elected by the Administrative Council.

(3) The term of office of the members elected by the Administrative Council shall be three years. This term of office shall not be renewable.

(4) The Board shall perform the duties given to it by the Administrative Council in accordance with the Rules of Procedure.

Article 29
Meetings

(1) Meetings of the Administrative Council shall be convened by its Chairman.

(2) The President of the European Patent Office shall take part in the deliberations of the Administrative Council.

(3) The Administrative Council shall hold an ordinary meeting once each year. In addition, it shall meet on the initiative of its Chairman or at the request of one-third of the Contracting States.

(4) The deliberations of the Administrative Council shall be based on an agenda, and shall be held in accordance with its Rules of Procedure.

(5) The provisional agenda shall contain any question whose inclusion is requested by any Contracting State in accordance with the Rules of Procedure.

Article 30
Attendance of observers

(1) The World Intellectual Property Organization shall be represented at the meetings of the Administrative Council, in accordance with the provisions of an agreement to be concluded between the European Patent Organisation and the World Intellectual Property Organization.

IV. poglavje
Upravni svet

26. člen
Članstvo

(1) Upravni svet sestavljajo predstavniki držav pogodbenic in njihovi namestniki. Vsaka država pogodbenica ima pravico imenovati v upravni svet enega predstavnika in enega namestnika.

(2) Članom upravnega sveta lahko ob upoštevanju določb njegovega poslovnika pomagajo svetovalci ali izvedenci.

27. člen
Predsedstvo

(1) Upravni svet izvoli predsednika in namestnika predsednika izmed predstavnikov držav pogodbenic in njihovih namestnikov. Namestnik predsednika po uradni dolžnosti nadomešča predsednika, kadar ta ne more opravljati svojih nalog.

(2) Mandat predsednika in namestnika predsednika traja tri leta. Mandat se lahko obnovi.

28. člen
Upravni odbor

(1) Če je držav pogodbenic vsaj osem, lahko upravni svet ustanovi odbor, ki ga sestavlja pet njegovih članov.

(2) Predsednik in namestnik predsednika upravnega sveta sta člana odbora po uradni dolžnosti; druge tri člane izvoli upravni svet.

(3) Mandat članov, ki jih izvoli upravni svet, traja tri leta. Ta mandat ni obnovljiv.

(4) Odbor opravlja naloge, ki mu jih naloži upravni svet v skladu s poslovníkom.

29. člen
Seje

(1) Seje upravnega sveta sklicuje njegov predsednik.

(2) Predsednik Evropskega patentnega urada sodeluje pri razpravah upravnega sveta.

(3) Upravni svet se redno sestaja enkrat letno. Poleg tega se sestaja tudi na pobudo svojega predsednika ali na zahtevo tretjine držav pogodbenic.

(4) Razprave upravnega sveta potekajo po dnevnem redu in v skladu z njegovim poslovníkom.

(5) Začasni dnevni red vsebuje vsako vprašanje, katerega vključitev zahteva katera koli država pogodbenica v skladu s poslovníkom.

30. člen
Navzočnost opazovalcev

(1) Svetovna organizacija za intelektualno lastnino je zastopana na sejah upravnega sveta v skladu z določbami sporazuma, ki se sklene med Evropsko patentno organizacijo in Svetovno organizacijo za intelektualno lastnino.

(2) Any other inter-governmental organisation charged with the implementation of international procedures in the field of patents with which the Organisation has concluded an agreement shall be represented at the meetings of the Administrative Council, in accordance with any provisions contained in such agreement.

(3) Any other inter-governmental and international non-governmental organisations exercising an activity of interest to the Organisation may be invited by the Administrative Council to arrange to be represented at its meetings during any discussion of matters of mutual interest.

Article 31

Languages of the Administrative Council

(1) The languages in use in the deliberations of the Administrative Council shall be English, French and German.

(2) Documents submitted to the Administrative Council, and the minutes of its deliberations, shall be drawn up in the three languages mentioned in paragraph 1.

Article 32

Staff, premises and equipment

The European Patent Office shall place at the disposal of the Administrative Council and any body established by it such staff, premises and equipment as may be necessary for the performance of their duties.

Article 33

Competence of the Administrative Council in certain cases

(1) The Administrative Council shall be competent to amend the following provisions of this Convention:

(a) the time limits laid down in this Convention; this shall apply to the time limit laid down in Article 94 only in the conditions laid down in Article 95;

(b) the Implementing Regulations.

(2) The Administrative Council shall be competent, in conformity with this Convention, to adopt or amend the following provisions:

(a) the Financial Regulations;

(b) the Service Regulations for permanent employees and the conditions of employment of other employees of the European Patent Office, the salary scales of the said permanent and other employees, and also the nature, and rules for the grant, of any supplementary benefits;

(c) the Pension Scheme Regulations and any appropriate increases in existing pensions to correspond to increases in salaries;

(d) the Rules relating to Fees;

(e) its Rules of Procedure.

(3) Notwithstanding Article 18, paragraph 2, the Administrative Council shall be competent to decide, in the light of experience, that in certain categories of cases Examining Divisions shall consist of one technical examiner. Such decision may be rescinded.

(4) The Administrative Council shall be competent to authorise the President of the European Patent Office to negotiate and, with its approval, to conclude agreements on behalf of the European Patent Organisation with States, with intergovernmental organisations and with documentation centres set up by virtue of agreements with such organisations.

(2) Vsaka druga medvladna organizacija, ki je odgovorna za izvajanje mednarodnih postopkov na področju patentov, s katero je Organizacija sklenila sporazum, je zastopana na sejah upravnega sveta v skladu z določbami iz takega sporazuma.

(3) Vsako drugo medvladno organizacijo in mednarodno nevladno organizacijo, ki opravlja za Organizacijo zanimivo dejavnost, lahko upravni svet povabi, da je zastopana na njegovih sejah med vsako razpravo o zadevah skupnega interesa.

31. člen

Jeziki upravnega sveta

(1) V razpravah upravnega sveta se uporabljajo angleški, francoski in nemški jezik.

(2) Dokumenti, ki so predloženi upravnemu svetu, in zapisniki njegovih razprav so sestavljeni v treh jezikih iz prvega odstavka.

32. člen

Osebe, prostori in oprema

Evropski patentni urad daje upravnemu svetu in vsakemu telesu, ki ga ta ustanovi, na razpolago osebe, prostore in opremo, potrebne za opravljanje njihovih nalog.

33. člen

Pristojnost upravnega sveta v nekaterih primerih

(1) Upravni svet je pristojen, da spreminja naslednje določbe te konvencije:

(a) roke, določene v tej konvenciji; to se nanaša na rok iz 94. člena le pod pogoji iz 95. člena;

(b) pravilnik o izvajanju.

(2) Upravni svet je v skladu s to konvencijo pristojen, da sprejema ali spreminja:

(a) pravilnik o finančnem poslovanju;

(b) pravila službovanja za stalno zaposlene in pogoje zaposlovanja za druge uslužbence Evropskega patentnega urada, plačne lestvice stalno zaposlenih in drugih uslužbencev ter tudi vrsto dodatnih ugodnosti in pravila za njihovo dodelitev;

(c) pravilnik o pokojninah in vsa ustrezna povečanja obstoječih pokojnin zaradi usklajevanja s povečanjem plač;

(d) pravilnik o pristojbinah;

(e) svoj poslovnik.

(3) Ne glede na drugi odstavek 18. člena je upravni svet pristojen za odločitev, da glede na izkušnje v nekaterih primerih oddelke za preizkuse sestavlja le en preizkuševalec tehnik. Taka odločitev se lahko preklicje.

(4) Upravni svet je pristojen, da pooblasti predsednika Evropskega patentnega urada, da se pogaja in z njegovim soglasjem sklepa sporazume v imenu Evropske patentne organizacije z državami, medvladnimi organizacijami in z dokumentacijskimi centri, ustanovljenimi na podlagi sporazumov s takimi organizacijami.

Article 34

Voting rights

(1) The right to vote in the Administrative Council shall be restricted to the Contracting States.

(2) Each Contracting State shall have one vote, subject to the application of the provisions of Article 36.

Article 35

Voting rules

(1) The Administrative Council shall take its decisions other than those referred to in paragraph 2 by a simple majority of the Contracting States represented and voting.

(2) A majority of three-quarters of the votes of the Contracting States represented and voting shall be required for the decisions which the Administrative Council is empowered to take under Article 7, Article 11, paragraph 1, Article 33, Article 39, paragraph 1, Article 40, paragraphs 2 and 4, Article 46, Article 87, Article 95, Article 134, Article 151, paragraph 3, Article 154, paragraph 2, Article 155, paragraph 2, Article 156, Article 157, paragraphs 2 to 4, Article 160, paragraph 1, second sentence, Article 162, Article 163, Article 166, Article 167 and Article 172.

(3) Abstentions shall not be considered as votes.

Article 36

Weighting of votes

(1) In respect of the adoption or amendment of the Rules relating to Fees and, if the financial contribution to be made by the Contracting States would thereby be increased, the adoption of the budget of the Organisation and of any amending or supplementary budget, any Contracting State may require, following a first ballot in which each Contracting State shall have one vote, and whatever the result of this ballot, that a second ballot be taken immediately, in which votes shall be given to the States in accordance with paragraph 2. The decision shall be determined by the result of this second ballot.

(2) The number of votes that each Contracting State shall have in the second ballot shall be calculated as follows:

(a) the percentage obtained for each Contracting State in respect of the scale for the special financial contributions, pursuant to Article 40, paragraphs 3 and 4, shall be multiplied by the number of Contracting States and divided by five;

(b) the number of votes thus given shall be rounded upwards to the next higher whole number;

(c) five additional votes shall be added to this number;

(d) nevertheless no Contracting State shall have more than 30 votes.

Chapter V
Financial provisions

Article 37

Cover for expenditure

The expenditure of the Organisation shall be covered:

(a) by the Organisation's own resources;

(b) by payments made by the Contracting States in respect of renewal fees for European patents levied in these States;

(c) where necessary, by special financial contributions made by the Contracting States;

(d) where appropriate, by the revenue provided for in Article 146.

34. člen

Glasovalna pravica

(1) Glasovalna pravica v upravnem svetu je omejena na države pogodbenice.

(2) Vsaka država pogodbenica ima ob upoštevanju določb 36. člena en glas.

35. člen

Pravila glasovanja

(1) Upravni svet sprejema odločitve z navadno večino glasov držav pogodbenic, ki so zastopane in glasujejo, razen odločitev iz drugega odstavka.

(2) Za odločitve, za katere je upravni svet pooblaščen po 7. členu, prvem odstavku 11. člena, 33. členu, prvem odstavku 39. člena, drugem in četrtem odstavku 40. člena, 46., 87., 95. in 134. členu, tretjem odstavku 151. člena, drugem odstavku 154., drugem odstavku 155. člena, 156. členu, drugem do četrtem odstavku 157. člena, drugem stavku prvega odstavka 160. člena, 162., 163., 166., 167. in 172. členu, je potrebna tričetrtinska večina glasov držav pogodbenic, ki so zastopane in glasujejo.

(3) Vzdržani glasovi se ne upoštevajo.

36. člen

Izračunavanje glasov

(1) Za sprejetje ali spremembe pravilnika o pristojbinah in za sprejetje proračuna Organizacije in vsake njegove spremembe ali dodatnega proračuna, če bi se s tem povečali finančni prispevki držav pogodbenic, lahko vsaka država pogodbenica zahteva, da se po prvem glasovanju, pri katerem ima vsaka država pogodbenica en glas, ne glede na izid tega glasovanja takoj začne drugo glasovanje, pri katerem se glasovi dajo državam v skladu z drugim odstavkom. Odločitev se sprejme glede na izid tega drugega glasovanja.

(2) Število glasov, ki jih ima vsaka država pogodbenica pri drugem glasovanju, se izračuna takole:

(a) odstotni delež, ki ga dobi vsaka država pogodbenica glede na razdelilnik posebnih finančnih prispevkov po tretjem in četrtem odstavku 40. člena, se pomnoži s številom držav pogodbenic in deli s pet;

(b) tako dobljeno število glasov se zaokroži na naslednje višje celo število;

(c) temu številu se doda še pet glasov;

(d) vendar nobena država pogodbenica ne sme imeti več kot 30 glasov.

V. poglavje
Finančne določbe

37. člen

Pokrivanje odhodkov

Odhodki Organizacije se pokrivajo:

(a) iz lastnih virov Organizacije;

(b) iz plačil držav pogodbenic glede na pristojbine za podaljšanje veljavnosti evropskih patentov, pobrane v teh državah;

(c) iz posebnih finančnih prispevkov držav pogodbenic, kadar je treba;

(d) iz prihodka, predvidenega po 146. členu, kadar je primerno.

Article 38

The Organisation's own resources

The Organisation's own resources shall be the yield from the fees laid down in this Convention, and also all receipts, whatever their nature.

Article 39

Payments by the Contracting States in respect of renewal fees for European patents

(1) Each Contracting State shall pay to the Organisation in respect of each renewal fee received for a European patent in that State an amount equal to a proportion of that fee, to be fixed by the Administrative Council; the proportion shall not exceed 75 per cent and shall be the same for all Contracting States. However, if the said proportion corresponds to an amount which is less than a uniform minimum amount fixed by the Administrative Council, the Contracting State shall pay that minimum to the Organisation.

(2) Each Contracting State shall communicate to the Organisation such information as the Administrative Council considers to be necessary to determine the amount of its payments.

(3) The due dates for these payments shall be determined by the Administrative Council.

(4) If a payment is not remitted fully by the due date, the Contracting State shall pay interest from the due date on the amount remaining unpaid.

*Article 40*Level of fees and payments –
Special financial contributions

(1) The amounts of the fees referred to under Article 38 and the proportion referred to under Article 39 shall be fixed at such a level as to ensure that the revenue in respect thereof is sufficient for the budget of the Organisation to be balanced.

(2) However, if the Organisation is unable to balance its budget under the conditions laid down in paragraph 1, the Contracting States shall remit to the Organisation special financial contributions, the amount of which shall be determined by the Administrative Council for the accounting period in question.

(3) These special financial contributions shall be determined in respect of any Contracting State on the basis of the number of patent applications filed in the last year but one prior to that of entry into force of this Convention, and calculated in the following manner:

(a) one half in proportion to the number of patent applications filed in that Contracting State;

(b) one half in proportion to the second highest number of patent applications filed in the other Contracting States by natural or legal persons having their residence or principal place of business in that Contracting State.

However, the amounts to be contributed by States in which the number of patent applications filed exceeds 25 000 shall then be taken as a whole and a new scale drawn up determined in proportion to the total number of patent applications filed in these States.

(4) Where, in respect of any Contracting State, its scale position cannot be established in accordance with paragraph 3, the Administrative Council shall, with the consent of that State, decide its scale position.

(5) Article 39, paragraphs 3 and 4, shall apply *mutatis mutandis* to the special financial contributions.

38. člen

Lastni viri Organizacije

Lastni viri Organizacije so prihodki od pristojbin, določenih v tej konvenciji, in tudi vsi prejemki ne glede na njihovo vrsto.

39. člen

Plačila držav pogodbenic glede na pristojbine za podaljšanje veljavnosti evropskih patentov

(1) Vsaka država pogodbenica plača Organizaciji za vsako pristojbino za podaljšanje veljavnosti, ki jo je prejela za evropski patent v tej državi, znesek v višini deleža te pristojbine, ki ga določi upravni svet; ta delež ne sme preseči 75% in je enak za vse države pogodbenice. Če je ta delež manjši od enotnega najmanjšega zneska, ki ga je določil upravni svet, plača država pogodbenica Organizaciji tak najmanjši znesek.

(2) Vsaka država pogodbenica sporoči Organizaciji vsak podatek, ki je po mnenju upravnega sveta potreben za določitev zneska njenih plačil.

(3) Datum zapadlosti teh plačil določi upravni svet.

(4) Če plačilo ni v celoti nakazano do datuma zapadlosti, plača država pogodbenica od tega datuma obresti za še neplačani znesek.

*40. člen*Višina pristojbin in plačil
Posebni finančni prispevki

(1) Zneski pristojbin iz 38. člena in deleža iz 39. člena morajo biti odmerjeni tako, da prihodek od njih zadošča za izravnavo proračuna Organizacije.

(2) Če Organizacija ne more izravnati svojega proračuna pod pogoji iz prvega odstavka, ji države pogodbenice nakažejo posebne finančne prispevke, katerih znesek določi upravni svet za zadevno obračunsko obdobje.

(3) Ti posebni finančni prispevki se za državo pogodbenico določijo na podlagi števila patentnih prijav, vloženih v predzadnjem letu pred začetkom veljavnosti te konvencije, izračunajo pa se takole:

(a) polovica v razmerju do števila patentnih prijav, vloženih v tej državi pogodbenici;

(b) polovica v razmerju do drugega najvišjega števila patentnih prijav, ki so jih vložile v drugih državah pogodbenicah fizične ali pravne osebe s prebivališčem ali sedežem podjetja v tej državi pogodbenici.

Vendar se zneski, ki jih morajo prispevati države, v katerih število vloženih patentnih prijav presega 25.000, vzamejo kot celota in sestavi se nov razdelilnik v razmerju do skupnega števila patentnih prijav, vloženih v teh državah.

(4) Kadar sorazmernega deleža neke države pogodbenice ni mogoče določiti v skladu s tretjim odstavkom, ga določi upravni svet v soglasju s to državo.

(5) Tretji in četrti odstavek 39. člena se smiselno uporabljata za posebne finančne prispevke.

(6) The special financial contributions shall be repaid together with interest at a rate which shall be the same for all Contracting States. Repayments shall be made in so far as it is possible to provide for this purpose in the budget; the amount thus provided shall be distributed among the Contracting States in accordance with the scale mentioned in paragraphs 3 and 4 above.

(7) The special financial contributions remitted in any accounting period shall be wholly repaid before any such contributions or parts thereof remitted in any subsequent accounting period are repaid.

Article 41

Advances

(1) At the request of the President of the European Patent Office, the Contracting States shall make advances to the Organisation, on account of their payments and contributions, within the limit of the amount fixed by the Administrative Council. Such advances shall be apportioned in proportion to the amounts due by the Contracting States for the accounting period in question.

(2) Article 39, paragraphs 3 and 4, shall apply *mutatis mutandis* to the advances.

Article 42

Budget

(1) Income and expenditure of the Organisation shall form the subject of estimates in respect of each accounting period and shall be shown in the budget. If necessary, there may be amending or supplementary budgets.

(2) The budget shall be balanced as between income and expenditure.

(3) The budget shall be drawn up in the unit of account fixed in the Financial Regulations.

Article 43

Authorisation for expenditure

(1) The expenditure entered in the budget shall be authorised for the duration of one accounting period, unless any provisions to the contrary are contained in the Financial Regulations.

(2) Subject to the conditions to be laid down in the Financial Regulations, any appropriations, other than those relating to staff costs, which are unexpended at the end of the accounting period may be carried forward, but not beyond the end of the following accounting period.

(3) Appropriations shall be set out under different headings according to type and purpose of the expenditure and subdivided, as far as necessary, in accordance with the Financial Regulations.

Article 44

Appropriations for unforeseeable expenditure

(1) The budget of the Organisation may contain appropriations for unforeseeable expenditure.

(2) The employment of these appropriations by the Organisation shall be subject to the prior approval of the Administrative Council.

Article 45

Accounting period

The accounting period shall commence on 1 January and end on 31 December.

(6) Posebni finančni prispevki se vrnejo z obrestmi po stopnji, ki je enaka za vse države pogodbenice. Vrnejo se le, če je za ta namen mogoče zagotoviti sredstva v proračunu; tako zagotovljeni znesek se razporedi med države pogodbenice v skladu z razdelilnikom, omenjenim v tretjem in četrtem odstavku tega člena.

(7) Posebni finančni prispevki, nakazani v nekem obračunskem obdobju, se vrnejo v celoti, preden se v celoti ali delno vrnejo posebni prispevki, nakazani v poznejšem obračunskem obdobju.

41. člen

Predplačila

(1) Na zahtevo predsednika Evropskega patentnega urada dajejo države pogodbenice Organizaciji predplačila na račun svojih plačil in prispevkov v okviru zneska, ki ga določi upravni svet. Predplačila se porazdelijo v sorazmerju z zneski, ki jih morajo države pogodbenice plačati za zadevno obračunsko obdobje.

(2) Za predplačila se smiselno uporabljata tretji in četrti odstavek 39. člena.

42. člen

Proračun

(1) Dohodki in odhodki Organizacije za vsako obračunsko obdobje morajo biti predvideni in prikazani v proračunu. Po potrebi se proračun lahko spremeni ali dopolni.

(2) Proračun mora biti glede dohodkov in odhodkov izravnán.

(3) Proračun mora biti sestavljen v obračunski enoti, določeni v pravilniku o finančnem poslovanju.

43. člen

Odobritev odhodkov

(1) Odhodki, predvideni v proračunu, so odobreni za eno obračunsko obdobje, razen če ni s pravilnikom o finančnem poslovanju drugače določeno.

(2) Ob upoštevanju pogojev iz pravilnika o finančnem poslovanju se lahko vsa proračunska sredstva, ki ob koncu obračunskega obdobja niso bila porabljena, razen tistih, ki se nanašajo na stroške za osebje, prenesejo naprej, vendar ne dlje kot do konca naslednjega obračunskega obdobja.

(3) Proračunska sredstva so prikazana po različnih poglavjih glede na vrsto in namen odhodka in po potrebi razčlenjena v skladu s pravilnikom o finančnem poslovanju.

44. člen

Proračunska sredstva za nepredvidljive odhodke

(1) Proračun Organizacije lahko vsebuje sredstva za nepredvidljive odhodke.

(2) Organizacija lahko uporablja ta proračunska sredstva po poprejšnji odobritvi upravnega sveta.

45. člen

Obračunsko obdobje

Obračunsko obdobje se začne 1. januarja in konča 31. decembra.

Article 46

Preparation and adoption of the budget

(1) The President of the European Patent Office shall lay the draft budget before the Administrative Council not later than the date prescribed in the Financial Regulations.

(2) The budget and any amending or supplementary budget shall be adopted by the Administrative Council.

Article 47

Provisional budget

(1) If, at the beginning of the accounting period, the budget has not been adopted by the Administrative Council, expenditures may be effected on a monthly basis per heading or other division of the budget, according to the provisions of the Financial Regulations, up to one-twelfth of the budget appropriations for the preceding accounting period, provided that the appropriations thus made available to the President of the European Patent Office shall not exceed one-twelfth of those provided for in the draft budget.

(2) The Administrative Council may, subject to the observance of the other provisions laid down in paragraph 1, authorise expenditure in excess of one-twelfth of the appropriations.

(3) The payments referred to in Article 37, sub-paragraph (b), shall continue to be made, on a provisional basis, under the conditions determined under Article 39 for the year preceding that to which the draft budget relates.

(4) The Contracting States shall pay each month, on a provisional basis and in accordance with the scale referred to in Article 40, paragraphs 3 and 4, any special financial contributions necessary to ensure implementation of paragraphs 1 and 2 above. Article 39, paragraph 4, shall apply *mutatis mutandis* to these contributions.

Article 48

Budget implementation

(1) The President of the European Patent Office shall implement the budget and any amending or supplementary budget on his own responsibility and within the limits of the allocated appropriations.

(2) Within the budget, the President of the European Patent Office may, subject to the limits and conditions laid down in the Financial Regulations, transfer funds as between the various headings or sub-headings.

Article 49

Auditing of accounts

(1) The income and expenditure account and a balance sheet of the Organisation shall be examined by auditors whose independence is beyond doubt, appointed by the Administrative Council for a period of five years, which shall be renewable or extensible.

(2) The audit, which shall be based on vouchers and shall take place, if necessary, *in situ*, shall ascertain that all income has been received and all expenditure effected in a lawful and proper manner and that the financial management is sound. The auditors shall draw up a report after the end of each accounting period.

(3) The President of the European Patent Office shall annually submit to the Administrative Council the accounts of the preceding accounting period in respect of the budget and the balance sheet showing the assets and liabilities of the Organisation together with the report of the auditors.

(4) The Administrative Council shall approve the annual accounts together with the report of the auditors and shall give the President of the European Patent Office a discharge in respect of the implementation of the budget.

46. člen

Priprava in sprejem proračuna

(1) Predsednik Evropskega patentnega urada predloži upravnemu svetu osnutek proračuna najpozneje do datuma, določenega v pravilniku o finančnem poslovanju.

(2) Proračun in vse njegove spremembe ali dodatni proračun sprejme upravni svet.

47. člen

Začasni proračun

(1) Če upravni svet na začetku obračunskega obdobja še ne sprejme proračuna, velja za odhodke mesečna osnova po poglavju ali drugi razčlenitvi proračuna v skladu z določbami pravilnika o finančnem poslovanju do dvanajstine proračunskih sredstev za predhodno obračunsko obdobje, pod pogojem da sredstva, s katerimi tako razpolaga predsednik Evropskega patentnega urada, ne presegajo dvanajstine sredstev, predvidenih v osnutku proračuna.

(2) Ob upoštevanju drugih določb iz prvega odstavka lahko upravni svet odobri odhodke, ki presegajo dvanajstino sredstev.

(3) Plačila iz pododstavka (b) 37. člena se začasno opravijo pod pogoji iz 39. člena za leto, ki je pred tistim, na katero se nanaša osnutek proračuna.

(4) Države pogodbenice plačajo vsak mesec začasno in v skladu z razdelilnikom iz tretjega in četrtega odstavka 40. člena posebne finančne prispevke, ki so potrebni za zagotovitev izvajanja prvega in drugega odstavka tega člena. Za te prispevke se smiselno uporablja četrti odstavek 39. člena.

48. člen

Izvrševanje proračuna

(1) Predsednik Evropskega patentnega urada izvršuje proračun in njegove spremembe ali dodatne proračune na svojo odgovornost in v okviru odobrenih sredstev.

(2) Znotraj proračuna lahko predsednik Evropskega patentnega urada prenaša sredstva med različnimi poglavji ali podpoglavji v mejah in pod pogoji, ki jih določa pravilnik o finančnem poslovanju.

49. člen

Revizija računovodstva

(1) Izkaz poslovnega izida ter bilanco stanja Organizacije pregledajo revizorji, katerih neodvisnost je nesporna in ki jih imenuje upravni svet za petletno obdobje, ki se lahko obnovi ali podaljša.

(2) Z revizijo, ki temelji na potrdilih o plačilih in se po potrebi opravi na kraju samem, se ugotavlja, ali so bili vsi prihodki prejeti in odhodki opravljeni zakonito in primerno in ali je finančno poslovanje solidno. Revizorji sestavijo poročilo po koncu vsakega obračunskega obdobja.

(3) Predsednik Evropskega patentnega urada predloži upravnemu svetu vsako leto zaključni račun predhodnega obračunskega obdobja glede na proračun in bilanco stanja, ki izkazuje sredstva in obveznosti Organizacije, ter poročilo revizorjev.

(4) Upravni svet odobri letno poročilo skupaj s poročilom revizorjev in da predsedniku razrešnico Evropskega patentnega urada glede izvrševanja proračuna.

Article 50

Financial Regulations

The Financial Regulations shall in particular establish:

(a) the procedure relating to the establishment and implementation of the budget and for the rendering and auditing of accounts;

(b) the method and procedure whereby the payments and contributions provided for in Article 37 and the advances provided for in Article 41 are to be made available to the Organisation by the Contracting States;

(c) the rules concerning the responsibilities of accounting and paying officers and the arrangements for their supervision;

(d) the rates of interest provided for in Articles 39, 40 and 47;

(e) the method of calculating the contributions payable by virtue of Article 146;

(f) the composition of and duties to be assigned to a Budget and Finance Committee which should be set up by the Administrative Council.

Article 51

Rules relating to Fees

The Rules relating to Fees shall determine in particular the amounts of the fees and the ways in which they are to be paid.

PART II
SUBSTANTIVE PATENT LAW

Chapter I
Patentability

Article 52

Patentable inventions

(1) European patents shall be granted for any inventions which are susceptible of industrial application, which are new and which involve an inventive step.

(2) The following in particular shall not be regarded as inventions within the meaning of paragraph 1:

(a) discoveries, scientific theories and mathematical methods;

(b) aesthetic creations;

(c) schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;

(d) presentations of information.

(3) The provisions of paragraph 2 shall exclude patentability of the subject-matter or activities referred to in that provision only to the extent to which a European patent application or European patent relates to such subject-matter or activities as such.

(4) Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body shall not be regarded as inventions which are susceptible of industrial application within the meaning of paragraph 1. This provision shall not apply to products, in particular substances or compositions, for use in any of these methods.

50. člen

Pravilnik o finančnem poslovanju

Pravilnik o finančnem poslovanju določa predvsem:

(a) postopek v zvezi z določanjem in izvrševanjem proračuna ter predložitvijo računov in revizijo računovodstva;

(b) način in postopek, po katerem morajo države pogodbenice dati Organizaciji na voljo plačila in prispevke iz 37. člena ter predplačila iz 41. člena;

(c) pravila o odgovornosti računovodij in uslužbencev, ki dajejo izplačilne naloge, ter ureditev njihovega nadzora;

(d) obrestne mere, predvidene v 39., 40. in 47. členu;

(e) način obračunavanja prispevkov, ki se plačujejo po 146. členu;

(f) sestavo in naloge proračunskega in finančnega odbora, ki ga ustanovi upravni svet.

51. člen

Predpisi o pristojbinah

Predpisi o pristojbinah določajo predvsem zneske pristojbin in načine njihovega plačevanja.

II. DEL
MATERIALNO PATENTNO PRAVO

I. poglavje
Možnost patentiranja

52. člen

Izumi, ki jih je mogoče patentirati

(1) Evropski patenti se podelijo za vse izume, ki so industrijsko uporabljivi, novi in na inventivni ravni.

(2) Za izume po prvem odstavku se predvsem ne štejejo:

(a) odkritja, znanstvene teorije in matematične metode;

(b) estetske stvaritve;

(c) načrti, pravila in metode za umske dejavnosti, igre ali poslovne dejavnosti ter računalniški programi;

(d) predstavitve informacij.

(3) Določbe drugega odstavka izključujejo možnost patentiranja vsebin ali dejavnosti, navedenih v omenjenih določbah, le v takem obsegu, v kakršnem se evropska patentna prijava ali evropski patent nanaša na take vsebine ali dejavnosti kot take.

(4) Kirurške ali terapevtske metode zdravljenja človeškega ali živalskega telesa in diagnostične metode, uporabljene na človeškem ali živalskem telesu, ne veljajo za izume, ki so industrijsko uporabljivi po prvem odstavku. Ta določba ne velja za izdelke, zlasti za snovi ali sestavke, ki se uporabljajo pri kateri od teh metod.

Article 53

Exceptions to patentability

European patents shall not be granted in respect of:

(a) inventions the publication or exploitation of which would be contrary to "ordre public" or morality, provided that the exploitation shall not be deemed to be so contrary merely because it is prohibited by law or regulation in some or all of the Contracting States;

(b) plant or animal varieties or essentially biological processes for the production of plants or animals; this provision does not apply to microbiological processes or the products thereof.

Article 54

Novelty

(1) An invention shall be considered to be new if it does not form part of the state of the art.

(2) The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, before the date of filing of the European patent application.

(3) Additionally, the content of European patent applications as filed, of which the dates of filing are prior to the date referred to in paragraph 2 and which were published under Article 93 on or after that date, shall be considered as comprised in the state of the art.

(4) Paragraph 3 shall be applied only in so far as a Contracting State designated in respect of the later application, was also designated in respect of the earlier application as published.

(5) The provisions of paragraphs 1 to 4 shall not exclude the patentability of any substance or composition, comprised in the state of the art, for use in a method referred to in Article 52, paragraph 4, provided that its use for any method referred to in that paragraph is not comprised in the state of the art.

Article 55

Non-prejudicial disclosures

(1) For the application of Article 54 a disclosure of the invention shall not be taken into consideration if it occurred no earlier than six months preceding the filing of the European patent application and if it was due to, or in consequence of:

(a) an evident abuse in relation to the applicant or his legal predecessor, or

(b) the fact that the applicant or his legal predecessor has displayed the invention at an official, or officially recognised, international exhibition falling within the terms of the Convention on international exhibitions signed at Paris on 22 November 1928 and last revised on 30 November 1972.

(2) In the case of paragraph 1(b), paragraph 1 shall apply only if the applicant states, when filing the European patent application, that the invention has been so displayed and files a supporting certificate within the period and under the conditions laid down in the Implementing Regulations.

Article 56

Inventive step

An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art. If the state of the art also includes documents within the meaning of Article 54, paragraph 3, these documents are not to be considered in deciding whether there has been an inventive step.

53. člen

Izjeme glede možnosti patentiranja

Evropski patenti se ne podelijo za:

(a) izume, katerih objava ali izkoriščanje bi bilo v nasprotju z javnim redom ali moralo, vendar se izkoriščanje ne šteje za tako le zaradi tega, ker je z zakonom ali uredbo prepovedano v nekaterih ali vseh državah pogodbenicah;

(b) rastlinske sorte ali živalske pasme ali postopke vzgoje rastlin ali živali, ki so v svojem bistvu biološki; ta določba ne velja za mikrobiološke postopke ali njihove proizvode.

54. člen

Novost

(1) Izum se šteje za novega, če ni del stanja tehnike.

(2) Stanje tehnike obsega vse tisto, kar je bilo s pisnim ali ustnim opisom, z uporabo ali kako drugače dostopno javnosti pred datumom vložitve evropske patentne prijave.

(3) Šteje se, da je s stanjem tehnike obsežena tudi vsebina evropskih patentnih prijav, kot so bile vložene in katerih datumi vložitve so pred datumom iz drugega odstavka in so bile objavljene po 93. členu na ta datum ali po njem.

(4) Tretji odstavek se uporablja le, če je bila država pogodbenica, imenovana v kasnejši prijavi, imenovana tudi v prejšnji prijavi, kot je bila objavljena.

(5) Določbe prvega do četrtega odstavka ne izključujejo možnosti patentiranja snovi ali sestavkov, obseženih s stanjem tehnike, za uporabo pri metodi iz četrtega odstavka 52. člena, če njihova uporaba za katero koli metodo iz omenjenega odstavka ni obsežena s stanjem tehnike.

55. člen

Neškodljiva razkritja

(1) Za uporabo 54. člena se razkritje izuma ne upošteva, če do njega ni prišlo prej kot šest mesecev pred vložitvijo evropske patentne prijave in če je do njega prišlo zaradi ali kot posledica:

(a) očitne zlorabe glede prijavitelja ali njegovega pravnega prednika ali

(b) dejstva, da je prijavitelj ali njegov pravni prednik razstavil izum na uradni ali uradno priznani mednarodni razstavi v smislu Konvencije o mednarodnih razstavah, podpisane 22. novembra 1928 v Parizu in zadnjič revidirane 30. novembra 1972.

(2) V primeru pododstavka (b) prvega odstavka se prvi odstavek uporablja le, če prijavitelj ob vložitvi evropske patentne prijave izjavi, da je bil izum tako razstavljen, in predloži spremljajoče potrdilo v roku in pod pogoji, določenimi v pravilniku o izvajanju.

56. člen

Inventivna raven

Šteje se, da je izum na inventivni ravni, če za strokovnjaka očitno ne izhaja iz stanja tehnike. Če stanje tehnike vključuje tudi dokumente v smislu tretjega odstavka 54. člena, se ti pri odločanju o obstoju inventivne ravni ne upoštevajo.

Article 57

Industrial application

An invention shall be considered as susceptible of industrial application if it can be made or used in any kind of industry, including agriculture.

Chapter II

Persons entitled to apply for and obtain European patents – Mention of the inventor

Article 58

Entitlement to file a European patent application

A European patent application may be filed by any natural or legal person, or any body equivalent to a legal person by virtue of the law governing it.

Article 59

Multiple applicants

A European patent application may also be filed either by joint applicants or by two or more applicants designating different Contracting States.

Article 60

Right to a European patent

(1) The right to a European patent shall belong to the inventor or his successor in title. If the inventor is an employee the right to the European patent shall be determined in accordance with the law of the State in which the employee is mainly employed; if the State in which the employee is mainly employed cannot be determined, the law to be applied shall be that of the State in which the employer has his place of business to which the employee is attached.

(2) If two or more persons have made an invention independently of each other, the right to the European patent shall belong to the person whose European patent application has the earliest date of filing; however, this provision shall apply only if this first application has been published under Article 93 and shall only have effect in respect of the Contracting States designated in that application as published.

(3) For the purposes of proceedings before the European Patent Office, the applicant shall be deemed to be entitled to exercise the right to the European patent.

Article 61

European patent applications by persons not having the right to a European patent

(1) If by a final decision it is adjudged that a person referred to in Article 60, paragraph 1, other than the applicant, is entitled to the grant of a European patent, that person may, within a period of three months after the decision has become final, provided that the European patent has not yet been granted, in respect of those Contracting States designated in the European patent application in which the decision has been taken or recognised, or has to be recognised on the basis of the Protocol on Recognition annexed to this Convention:

(a) prosecute the application as his own application in place of the applicant,

(b) file a new European patent application in respect of the same invention, or

(c) request that the application be refused.

(2) The provisions of Article 76, paragraph 1, shall apply mutatis mutandis to a new application filed under paragraph 1.

57. člen

Industrijska uporabljivost

Šteje se, da je izum industrijsko uporabljiv, če se njegov predmet lahko izdelava ali uporablja v kateri koli gospodarski dejavnosti, vključno s kmetijstvom.

II. poglavje

Osebe, ki so upravičene prijaviti in pridobiti evropske patente – Omemba izumitelja

58. člen

Upravičenost do vložitve evropske patentne prijave

Evropsko patentno prijavo lahko vloži vsaka fizična ali pravna oseba ali vsak organ, ki velja za pravno osebo po pravu, ki se zanj uporablja.

59. člen

Več prijaviteljev

Evropsko patentno prijavo lahko vložijo tudi skupni prijavitelji ali dva ali več prijaviteljev, ki imenujejo različne države pogodbenice.

60. člen

Pravica do evropskega patenta

(1) Pravica do evropskega patenta pripada izumitelju ali njegovemu pravnemu nasledniku. Če je izumitelj zaposlen, je pravica do evropskega patenta določena v skladu s pravom države, v kateri je pretežno zaposlen; če države, v kateri je uslužbenec pretežno zaposlen, ni mogoče določiti, se uporablja pravo države, v kateri ima delodajalec sedež podjetja, ki mu zaposleni pripada.

(2) Če izum ustvarita dve ali več oseb neodvisno ena od druge, pripada pravica do evropskega patenta osebi, katere evropska patentna prijava ima najzgodnejši datum vložitve; ta določba se uporablja le, če je bila prva prijava objavljena po 93. členu, in velja le za države pogodbenice, imenovane v tej prijavi, kot je bila objavljena.

(3) Za namene postopka pri Evropskem patentnem uradu se šteje, da je prijavitelj upravičen uveljavljati pravico do evropskega patenta.

61. člen

Evropske patentne prijave, ki jih vložijo osebe, ki nimajo pravice do evropskega patenta

(1) Če je s končno odločitvijo osebi iz prvega odstavka 60. člena, ki ni prijavitelj, priznana upravičenost do podelitve evropskega patenta, lahko ta oseba, če evropski patent še ni bil podeljen, glede držav pogodbenic, imenovanih v evropski patentni prijavi, v katerih je bila sprejeta ali priznana odločitev ali mora biti priznana na podlagi protokola o priznanju, ki je priloga k tej konvenciji, v treh mesecih po končni odločitvi:

(a) namesto prijavitelja nadaljuje postopek v zvezi s prijavo, kot da je njena;

(b) vloži novo evropsko patentno prijavo za isti izum ali

(c) zahteva zavrnitev prijave.

(2) Določbe prvega odstavka 76. člena se smiselno uporabljajo za novo prijavo, vloženo po prvem odstavku.

(3) The procedure to be followed in carrying out the provisions of paragraph 1, the special conditions applying to a new application filed under paragraph 1 and the time limit for paying the filing, search and designation fees on it are laid down in the Implementing Regulations.

Article 62

Right of the inventor to be mentioned

The inventor shall have the right, vis-à-vis the applicant for or proprietor of a European patent, to be mentioned as such before the European Patent Office.

Chapter III

Effects of the European patent and the European patent application

Article 63

Term of the European patent

(1) The term of the European patent shall be 20 years as from the date of filing of the application.

(2) Nothing in the preceding paragraph shall limit the right of a Contracting State to extend the term of a European patent, or to grant corresponding protection which follows immediately on expiry of the term of the patent, under the same conditions as those applying to national patents:

(a) in order to take account of a state of war or similar emergency conditions affecting that State;

(b) if the subject-matter of the European patent is a product or a process of manufacturing a product or a use of a product which has to undergo an administrative authorisation procedure required by law before it can be put on the market in that State.

(3) Paragraph 2 shall apply mutatis mutandis to European patents granted jointly for a group of Contracting States in accordance with Article 142.

(4) A Contracting State which makes provision for extension of the term or corresponding protection under paragraph 2(b) may, in accordance with an agreement concluded with the Organisation, entrust to the European Patent Office tasks associated with implementation of the relevant provisions.

Article 64

Rights conferred by a European patent

(1) A European patent shall, subject to the provisions of paragraph 2, confer on its proprietor from the date of publication of the mention of its grant, in each Contracting State in respect of which it is granted, the same rights as would be conferred by a national patent granted in that State.

(2) If the subject-matter of the European patent is a process, the protection conferred by the patent shall extend to the products directly obtained by such process.

(3) Any infringement of a European patent shall be dealt with by national law.

(3) Postopek za izvajanje določb prvega odstavka, posebni pogoji, ki se uporabljajo za novo prijavo, vloženo po prvem odstavku, in rok za plačilo prijavnih pristojbin ter pristojbin za poizvedbo in imenovanje so določeni v pravilniku o izvajanju.

62. člen

Izumiteljeva pravica do omembe

Izumitelj ima nasproti prijavitelju ali imetniku evropskega patenta pravico biti omenjen kot tak pri Evropskem patentnem uradu.

III. poglavje

Učinki evropskega patenta in evropske patentne prijave

63. člen

Trajanje evropskega patenta

(1) Evropski patent traja 20 let od datuma vložitve prijave.

(2) Prejšnji odstavek ne omejuje pravice države pogodbenice, da podaljša trajanje evropskega patenta ali podeli ustrezno varstvo takoj po poteku trajanja patenta pod enakimi pogoji, kot veljajo za državne patente:

(a) v vojni ali podobnem kriznem stanju v tej državi;

(b) če je predmet evropskega patenta izdelek ali postopek izdelave izdelka ali uporaba izdelka, za katerega je pred prihodom na tržišče v tej državi potreben upravni postopek odobritve, ki ga zahteva zakon.

(3) Drugi odstavek se smiselno uporablja za evropske patente, podeljene skupno za skupino držav pogodbenic v skladu s 142. členom.

(4) Država pogodbenica, ki predvideva podaljšanje trajanja ali ustreznega varstva po pododstavku (b) drugega odstavka v skladu s sporazumom, sklenjenim z Organizacijo, zaupa Evropskemu patentnemu uradu naloge v zvezi z izvajanjem ustreznih določb.

64. člen

Pravice iz evropskega patenta

(1) Ob upoštevanju drugega odstavka daje evropski patent imetniku od datuma objave omembe njegove podelitve v vsaki državi pogodbenici, za katero je podeljen, enake pravice, kot bi mu jih dal državni patent, podeljen v tej državi.

(2) Če je predmet evropskega patenta postopek, se varstvo iz tega patenta razširi na izdelke, pridobljene neposredno s tem postopkom.

(3) Vsaka kršitev evropskega patenta se obravnava po državnem pravu.

Article 65

Translation of the specification of the European patent

(1) Any Contracting State may prescribe that if the text, in which the European Patent Office intends to grant a European patent or maintain a European patent as amended for that State, is not drawn up in one of its official languages, the applicant for or proprietor of the patent shall supply to its central industrial property office a translation of this text in one of its official languages at his option or, where that State has prescribed the use of one specific official language, in that language. The period for supplying the translation shall end three months after the date on which the mention of the grant of the European patent or of the maintenance of the European patent as amended is published in the European Patent Bulletin, unless the State concerned prescribes a longer period.

(2) Any Contracting State which has adopted provisions pursuant to paragraph 1 may prescribe that the applicant for or proprietor of the patent must pay all or part of the costs of publication of such translation within a period laid down by that State.

(3) Any Contracting State may prescribe that in the event of failure to observe the provisions adopted in accordance with paragraphs 1 and 2, the European patent shall be deemed to be void ab initio in that State.

Article 66

Equivalence of European filing with national filing

A European patent application which has been accorded a date of filing shall, in the designated Contracting States, be equivalent to a regular national filing, where appropriate with the priority claimed for the European patent application.

Article 67

Rights conferred by a European patent application after publication

(1) A European patent application shall, from the date of its publication under Article 93, provisionally confer upon the applicant such protection as is conferred by Article 64, in the Contracting States designated in the application as published.

(2) Any Contracting State may prescribe that a European patent application shall not confer such protection as is conferred by Article 64. However, the protection attached to the publication of the European patent application may not be less than that which the laws of the State concerned attach to the compulsory publication of unexamined national patent applications. In any event, every State shall ensure at least that, from the date of publication of a European patent application, the applicant can claim compensation reasonable in the circumstances from any person who has used the invention in the said State in circumstances where that person would be liable under national law for infringement of a national patent.

(3) Any Contracting State which does not have as an official language the language of the proceedings, may prescribe that provisional protection in accordance with paragraphs 1 and 2 above shall not be effective until such time as a translation of the claims in one of its official languages at the option of the applicant or, where that State has prescribed the use of one specific official language, in that language:

(a) has been made available to the public in the manner prescribed by national law, or

(b) has been communicated to the person using the invention in the said State.

65. člen

Prevod evropskega patentnega spisa

(1) Če besedilo, v katerem namerava Evropski patentni urad podeliti evropski patent za neko državo pogodbenico ali ga zanjo vzdrževati v spremenjeni obliki, ni sestavljeno v enem od njenih uradnih jezikov, lahko ta država določi, da mora prijavitelj ali imetnik patenta dostaviti njenemu osrednjemu uradu za industrijsko lastnino prevod tega besedila v enem od uradnih jezikov, ki ga sam izbere, ali v določenem uradnem jeziku, če je ta država predpisala njegovo rabo. Rok za dostavo prevoda poteče v treh mesecih od datuma, ko je v Evropskem patentnem biltenu objavljena omemba podelitve evropskega patenta ali njegovega vzdrževanja v spremenjeni obliki, razen če zadevna država ne predpiše daljšega roka.

(2) Vsaka država pogodbenica, ki je sprejela določbe v skladu s prvim odstavkom, lahko predpiše, da mora prijavitelj ali imetnik patenta v roku, ki ga določi ta država, plačati vse stroške ali del stroškov objave takega prevoda.

(3) Če se ne spoštujejo določbe, sprejete v skladu s prvim in drugim odstavkom, lahko vsaka država pogodbenica predpiše, da se evropski patent v tej državi od samega začetka šteje za neveljavnega.

66. člen

Enakovrednost evropske vložitve prijave z državno vložitvijo

Evropska patentna prijava, ki ji je bil dodeljen datum vložitve, je v imenovanih državah pogodbenicah enakovredna redni državni prijavi, pri čemer se upošteva prednost, ki se zahteva za evropsko patentno prijavo, kadar je primerno.

67. člen

Pravice iz evropske patentne prijave po objavi

(1) Evropska patentna prijava od datuma objave po 93. členu začasno daje prijavitelju v državah pogodbenicah, imenovanih v prijavi, kot je bila objavljena, tako varstvo, kakršno mu je zagotovljeno po 64. členu.

(2) Vsaka država pogodbenica lahko predpiše, da evropska patentna prijava ne zagotavlja takega varstva, kot ga zagotavlja 64. člen. Vendar varstvo, vezano na objavo evropske patentne prijave, ne more biti manjše od tistega, ki ga pravo zadevne države veže na obvezno objavo nepreizkušenih prijav državnega patenta. V vsakem primeru mora vsaka država zagotoviti vsaj to, da lahko prijavitelj od datuma objave evropske patentne prijave zahteva okoliščinam primerno nadomestilo od vsakogar, ki v tej državi izkorišča izum v okoliščinah, v katerih bi bil po državnem pravu odgovoren za kršitev državnega patenta.

(3) Vsaka država pogodbenica, katere uradni jezik ni jezik postopka, lahko predpiše, da začasno varstvo iz prvega in drugega odstavka ne začne veljati, dokler prevod patentnih zahtevkov v enega od njenih uradnih jezikov, ki ga prijavitelj sam izbere, ali v določeni uradni jezik, če je ta država predpisala njegovo rabo:

(a) ni postal dostopen javnosti na način, ki ga predpisuje državno pravo, ali

(b) ni bil poslan osebi, ki v tej državi izkorišča izum.

(4) The European patent application shall be deemed never to have had the effects set out in paragraphs 1 and 2 above when it has been withdrawn, deemed to be withdrawn or finally refused. The same shall apply in respect of the effects of the European patent application in a Contracting State the designation of which is withdrawn or deemed to be withdrawn.

Article 68

Effect of revocation of the European patent

The European patent application and the resulting patent shall be deemed not to have had, as from the outset, the effects specified in Articles 64 and 67, to the extent that the patent has been revoked in opposition proceedings.

Article 69

Extent of protection

(1) The extent of the protection conferred by a European patent or a European patent application shall be determined by the terms of the claims. Nevertheless, the description and drawings shall be used to interpret the claims.

(2) For the period up to grant of the European patent, the extent of the protection conferred by the European patent application shall be determined by the latest filed claims contained in the publication under Article 93. However, the European patent as granted or as amended in opposition proceedings shall determine retroactively the protection conferred by the European patent application, in so far as such protection is not thereby extended.

Article 70

Authentic text of a European patent application or European patent

(1) The text of a European patent application or a European patent in the language of the proceedings shall be the authentic text in any proceedings before the European Patent Office and in any Contracting State.

(2) However, in the case referred to in Article 14, paragraph 2, the original text shall, in proceedings before the European Patent Office, constitute the basis for determining whether the subject-matter of the application or patent extends beyond the content of the application as filed.

(3) Any Contracting State may provide that a translation, as provided for in this Convention, in an official language of that State, shall in that State be regarded as authentic, except for revocation proceedings, in the event of the application or patent in the language of the translation conferring protection which is narrower than that conferred by it in the language of the proceedings.

(4) Any Contracting State which adopts a provision under paragraph 3:

(a) must allow the applicant for or proprietor of the patent to file a corrected translation of the European patent application or European patent. Such corrected translation shall not have any legal effect until any conditions established by the Contracting State under Article 65, paragraph 2, and Article 67, paragraph 3, have been complied with *mutatis mutandis*;

(b) may prescribe that any person who, in that State, in good faith is using or has made effective and serious preparations for using an invention the use of which would not constitute infringement of the application or patent in the original translation may, after the corrected translation takes effect, continue such use in the course of his business or for the needs thereof without payment.

(4) Šteje se, da evropska patentna prijava nikoli ni imela učinkov, določenih v prvem in drugem odstavku tega člena, če je bila umaknjena, če se šteje za umaknjeno ali je dokončno zavrnjena. Enako velja za učinke prijave evropskega patenta v državi pogodbenici, katere imenovanje je umaknjeno ali se šteje za umaknjeno.

68. člen

Učinek razveljavitve evropskega patenta

Šteje se, da evropska patentna prijava in iz nje izhajajoči patent že od začetka nista imela učinkov, določenih v 64. in 67. členu, in to v obsegu, v kakršnem je bil patent razveljavljen v postopku ugovora.

69. člen

Obseg varstva

(1) Obseg varstva, ki ga daje evropski patent ali evropska patentna prijava, določa vsebina patentnih zahtevkov. Za razlago patentnih zahtevkov se uporabljajo opis in skice.

(2) Za obdobje do podelitve evropskega patenta se obseg varstva, ki ga daje evropska patentna prijava, določi z zadnjimi vloženiimi patentnimi zahtevki, vsebovanimi v objavi po 93. členu. Vendar evropski patent, kot je bil podeljen ali spremenjen v postopku ugovora, določa z učinkom za nazaj obseg varstva, ki ga daje evropska patentna prijava, če tako varstvo ni razširjeno.

70. člen

Verodostojno besedilo evropske patentne prijave ali evropskega patenta

(1) Besedilo evropske patentne prijave ali evropskega patenta v jeziku postopka je verodostojno besedilo za vse postopke pri Evropskem patentnem uradu in v vseh državah pogodbenicah.

(2) V primeru iz drugega odstavka 14. člena se v postopku pri Evropskem patentnem uradu na podlagi izvirnega besedila ugotavlja, ali je predmet prijave ali patenta razširjen glede na vsebino prijave, kot je bila vložena.

(3) Vsaka država pogodbenica lahko določi, da prevod v uradni jezik te države, kot je določeno s to konvencijo, v tej državi razen za postopek razveljavitve velja za verodostojnega, če daje prijava ali patent v jeziku prevoda ožje varstvo, kot ga daje prijava ali patent v jeziku postopka.

(4) Vsaka država pogodbenica, ki sprejme določbo po tretjem odstavku:

(a) mora dovoliti prijavitelju ali imetniku patenta, da vloži popravljeni prevod evropske patentne prijave ali evropskega patenta; ta popravljeni prevod nima nobenega pravnega učinka, dokler niso smiselno izpolnjeni vsi pogoji, ki jih določi država pogodbenica na podlagi drugega odstavka 65. člena in tretjega odstavka 67. člena;

(b) lahko predpiše, da sme po začetku veljavnosti popravljenega prevoda vsakdo, ki v tej državi v dobri veri uporablja izum ali je opravil dejanske in resne priprave za njegovo uporabo, ki ne pomeni kršitve prijave ali patenta v izvirnem prevodu, brezplačno nadaljevati s tako uporabo v svojem poslovanju ali za potrebe poslovanja.

Chapter IV
The European patent application as an object of property

Article 71

Transfer and constitution of rights

A European patent application may be transferred or give rise to rights for one or more of the designated Contracting States.

Article 72

Assignment

An assignment of a European patent application shall be made in writing and shall require the signature of the parties to the contract.

Article 73

Contractual licensing

A European patent application may be licensed in whole or in part for the whole or part of the territories of the designated Contracting States.

Article 74

Law applicable

Unless otherwise specified in this Convention, the European patent application as an object of property shall, in each designated Contracting State and with effect for such State, be subject to the law applicable in that State to national patent applications

PART III
APPLICATION FOR EUROPEAN PATENTS

Chapter I
Filing and requirements of the European patent application

Article 75

Filing of the European patent application

(1) A European patent application may be filed:

(a) at the European Patent Office at Munich or its branch at The Hague, or

(b) if the law of a Contracting State so permits, at the central industrial property office or other competent authority of that State. An application filed in this way shall have the same effect as if it had been filed on the same date at the European Patent Office.

(2) The provisions of paragraph 1 shall not preclude the application of legislative or regulatory provisions which, in any Contracting State:

(a) govern inventions which, owing to the nature of their subject-matter, may not be communicated abroad without the prior authorisation of the competent authorities of that State, or

(b) prescribe that each application is to be filed initially with a national authority or make direct filing with another authority subject to prior authorisation.

(3) No Contracting State may provide for or allow the filing of European divisional applications with an authority referred to in paragraph 1(b).

IV. poglavje
Evropska patentna prijava kot predmet lastnine

71. člen

Prenos in nastanek pravic

Evropska patentna prijava je lahko prenesena ali je podlaga za nastanek pravic za eno ali več imenovanih držav pogodbenic.

72. člen

Odstop

Odstop evropske patentne prijave se opravi v pisni obliki in zahteva podpis obeh pogodbenic.

73. člen

Pogodbena licenca

Evropska patentna prijava je lahko v celoti ali delno predmet licence za celotno ozemlje ali del ozemlja imenovanih držav pogodbenic.

74. člen

Pravo, ki se uporablja

Če ta konvencija ne določa drugače, se za evropsko patentno prijavo kot predmet lastnine v vsaki imenovani državi pogodbenici in z veljavnostjo zanjo uporablja pravo, ki se v tej državi uporablja za državne patentne prijave.

III. DEL
PRIJAVA EVROPSKIH PATENTOV

I. poglavje
Vložitev evropske patentne prijave in pogoji, ki jih mora izpolnjevati

75. člen

Vložitev evropske patentne prijave

(1) Evropska patentna prijava se lahko vložijo:

(a) pri Evropskem patentnem uradu v Münchnu ali pri njegovi podružnici v Haagu ali

(b) pri osrednjem uradu za industrijsko lastnino ali drugem pristojnem organu države pogodbenice, če to dopušča njeno pravo; tako vložena prijava ima enak učinek, kot če bi bila vložena na isti datum pri Evropskem patentnem uradu.

(2) Določbe prvega odstavka ne izključujejo uporabe zakonskih ali podzakonskih določb, ki v državi pogodbenici:

(a) veljajo za izume, ki zaradi narave svoje vsebine ne smejo biti sporočeni tujini brez poprejšnjega pooblastila pristojnih organov te države, ali

(b) določajo, da je treba vsako prijavo najprej vložiti pri državnem organu ali s poprejšnjim soglasjem neposredno pri drugem organu.

(3) Nobena država pogodbenica ne sme predpisati ali dovoliti vložitev izločenih evropskih patentnih prijav pri organu, omenjenem v pododstavku (b) prvega odstavka.

Article 76

European divisional applications

(1) A European divisional application must be filed directly with the European Patent Office at Munich or its branch at The Hague. It may be filed only in respect of subject-matter which does not extend beyond the content of the earlier application as filed; in so far as this provision is complied with, the divisional application shall be deemed to have been filed on the date of filing of the earlier application and shall have the benefit of any right to priority.

(2) The European divisional application shall not designate Contracting States which were not designated in the earlier application.

(3) The procedure to be followed in carrying out the provisions of paragraph 1, the special conditions to be complied with by a divisional application and the time limit for paying the filing, search and designation fees are laid down in the Implementing Regulations.

Article 77

Forwarding of European patent applications

(1) The central industrial property office of a Contracting State shall be obliged to forward to the European Patent Office, in the shortest time compatible with the application of national law concerning the secrecy of inventions in the interests of the State, any European patent applications which have been filed with that office or with other competent authorities in that State.

(2) The Contracting States shall take all appropriate steps to ensure that European patent applications, the subject of which is obviously not liable to secrecy by virtue of the law referred to in paragraph 1, shall be forwarded to the European Patent Office within six weeks after filing.

(3) European patent applications which require further examination as to their liability to secrecy shall be forwarded in such manner as to reach the European Patent Office within four months after filing, or, where priority has been claimed, fourteen months after the date of priority.

(4) A European patent application, the subject of which has been made secret, shall not be forwarded to the European Patent Office.

(5) European patent applications which do not reach the European Patent Office before the end of the fourteenth month after filing or, if priority has been claimed, after the date of priority, shall be deemed to be withdrawn. The filing, search and designation fees shall be refunded.

Article 78

Requirements of the European patent application

(1) A European patent application shall contain:

- (a) a request for the grant of a European patent;
- (b) a description of the invention;
- (c) one or more claims;
- (d) any drawings referred to in the description or the claims;
- (e) an abstract.

(2) A European patent application shall be subject to the payment of the filing fee and the search fee within one month after the filing of the application.

(3) A European patent application must satisfy the conditions laid down in the Implementing Regulations.

76. člen

Evropske izločene prijave

(1) Evropska izločena prijava mora biti vložena neposredno pri Evropskem patentnem uradu v Münchnu ali pri njegovi podružnici v Haagu. Vložena je lahko samo za predmet, ki ne presega vsebine zgodnejše prijave, kot je bila vložena; če je ta določba izpolnjena, se šteje, da je bila izločena prijava vložena na datum vložitve zgodnejše prijave in ima prednostno pravico.

(2) V evropski izločeni prijavi ne morejo biti imenovane države pogodbenice, ki niso bile imenovane v zgodnejši prijavi.

(3) Postopek za izvajanje določb prvega odstavka, posebne pogoje, ki jih mora izpolnjevati izločena prijava, in rok za plačilo prijavnih pristojbin ter pristojbin za poizvedbo in imenovanje določa pravilnik o izvajanju.

77. člen

Pošiljanje evropskih patentnih prijav

(1) Osrednji urad za industrijsko lastnino države pogodbenice mora v najkrajšem roku, ki je skladen z državnim pravom glede tajnosti izumov, ki so v interesu te države, poslati Evropskemu patentnemu uradu evropske patentne prijave, ki so bile vložene pri tem uradu ali pri drugih pristojnih organih v tej državi.

(2) Države pogodbenice sprejmejo vse ustrezne ukrepe, da se evropske patentne prijave, katerih predmet očitno ni zavezan tajnosti na podlagi prava, omenjenega v prvem odstavku, pošljejo Evropskemu patentnemu uradu v šestih tednih po vložitvi.

(3) Evropske patentne prijave, ki jih je treba preizkusiti glede njihove zavezanosti tajnosti, morajo biti poslane tako, da dospejo na Evropski patentni urad v štirih mesecih po vložitvi ali v štirinajstih mesecih po prednostnem datumu, če je bila zahtevana prednost.

(4) Evropska patentna prijava, katere predmet je bil opredeljen kot taje, se ne pošlje Evropskemu patentnemu uradu.

(5) Evropske patentne prijave, ki ne dospejo na Evropski patentni urad pred potekom štirinajstih mesecev od vložitve ali od prednostnega datuma, če je bila zahtevana prednost, se štejejo za umaknjene. Prijavne pristojbine ter pristojbine za poizvedbo in imenovanje se vrnejo.

78. člen

Pogoji, ki jih mora izpolnjevati evropska patentna prijava

(1) Evropska patentna prijava mora vsebovati:

- (a) zahtevo za podelitev evropskega patenta,
- (b) opis izuma,
- (c) enega ali več patentnih zahtevkov,
- (d) skice, omenjene v opisu ali patentnih zahtevkih,
- (e) povzetek.

(2) Za evropsko patentno prijavo se v enem mesecu po njeni vložitvi plačata prijavna pristojbina in pristojbina za poizvedbo.

(3) Evropska patentna prijava mora izpolnjevati pogoje iz pravilnika o izvajanju.

Article 79

Designation of Contracting States

(1) The request for the grant of a European patent shall contain the designation of the Contracting State or States in which protection for the invention is desired.

(2) The designation of a contracting state shall be subject to the payment of the designation fee. The designation fees shall be paid within six months of the date on which the European Patent Bulletin mentions the publication of the European search report.

(3) The designation of a Contracting State may be withdrawn at any time up to the grant of the European patent. Withdrawal of the designation of all the Contracting States shall be deemed to be a withdrawal of the European patent application. Designation fees shall not be refunded.

Article 80

Date of filing

The date of filing of a European patent application shall be the date on which documents filed by the applicant contain:

- (a) an indication that a European patent is sought;
- (b) the designation of at least one Contracting State;
- (c) information identifying the applicant;

(d) a description and one or more claims in one of the languages referred to in Article 14, paragraphs 1 and 2, even though the description and the claims do not comply with the other requirements of this Convention.

Article 81

Designation of the inventor

The European patent application shall designate the inventor. If the applicant is not the inventor or is not the sole inventor, the designation shall contain a statement indicating the origin of the right to the European patent.

Article 82

Unity of invention

The European patent application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

Article 83

Disclosure of the invention

The European patent application must disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

Article 84

The claims

The claims shall define the matter for which protection is sought. They shall be clear and concise and be supported by the description.

Article 85

The abstract

The abstract shall merely serve for use as technical information; it may not be taken into account for any other purpose, in particular not for the purpose of interpreting the scope of the protection sought nor for the purpose of applying Article 54, paragraph 3.

79. člen

Imenovanje držav pogodbenic

(1) Zahteva za podelitev evropskega patenta mora vsebovati imenovanje države pogodbenice ali držav pogodbenic, v katerih se želi varstvo izuma.

(2) Za imenovanje države pogodbenice se plača pristojbina za imenovanje. Pristojbine za imenovanje se plačajo v šestih mesecih od datuma, ko je bila v Evropskem patentnem biltnu omenjena objava evropskega poročila o poizvedbi.

(3) Imenovanje države pogodbenice se lahko umakne kadar koli pred podelitvijo evropskega patenta. Umik imenovanja vseh držav pogodbenic se šteje za umik evropske patentne prijave. Pristojbine za imenovanje se ne vračajo.

80. člen

Datum vložitve

Datum vložitve evropske patentne prijave je datum, na katerega je prijavitelj vložil dokumente, ki vsebujejo:

- (a) navedbo, da se zahteva evropski patent;
- (b) imenovanje najmanj ene države pogodbenice;
- (c) podatke, ki omogočajo identifikacijo prijavitelja;
- (d) opis in enega ali več patentnih zahtevkov v enem od jezikov iz prvega in drugega odstavka 14. člena, tudi če opis in patentni zahtevki ne izpolnjujejo drugih zahtev te konvencije.

81. člen

Imenovanje izumitelja

V evropski patentni prijavi mora biti imenovan izumitelj. Če prijavitelj ni izumitelj ali ni edini izumitelj, mora imenovanje vsebovati izjavo o izvoru pravice do evropskega patenta.

82. člen

Enotnost izuma

Evropska patentna prijava se lahko nanaša le na en izum ali na skupino izumov, ki so med seboj tako povezani, da oblikujejo eno samo splošno inventivno zamisel.

83. člen

Razkritje izuma

Izum mora biti v evropski patentni prijavi razkrit dovolj jasno in popolno, da ga lahko izvede strokovnjak.

84. člen

Patentni zahtevki

Patentni zahtevki označujejo predmet zahtevanega varstva. Biti morajo jasni in zgoščeni ter podprti z opisom.

85. člen

Povzetek

Povzetek je namenjen zgolj tehničnemu obveščanju; ne more se upoštevati za noben drug namen, zlasti ne za razlago obsega zahtevanega varstva niti za uporabo tretjega odstavka 54. člena.

Article 86

Renewal fees for European patent applications

(1) Renewal fees shall be paid to the European Patent Office in accordance with the Implementing Regulations in respect of European patent applications. These fees shall be due in respect of the third year and each subsequent year, calculated from the date of filing of the application.

(2) When a renewal fee has not been paid on or before the due date, the fee may be validly paid within six months of the said date, provided that the additional fee is paid at the same time.

(3) If the renewal fee and any additional fee have not been paid in due time the European patent application shall be deemed to be withdrawn. The European Patent Office alone shall be competent to decide this.

(4) The obligation to pay renewal fees shall terminate with the payment of the renewal fee due in respect of the year in which the mention of the grant of the European patent is published.

Chapter II
PriorityArticle 87
Priority right

(1) A person who has duly filed in or for any State party to the Paris Convention for the Protection of Industrial Property, an application for a patent or for the registration of a utility model or for a utility certificate or for an inventor's certificate, or his successors in title, shall enjoy, for the purpose of filing a European patent application in respect of the same invention, a right of priority during a period of twelve months from the date of filing of the first application.

(2) Every filing that is equivalent to a regular national filing under the national law of the State where it was made or under bilateral or multilateral agreements, including this Convention, shall be recognised as giving rise to a right of priority.

(3) By a regular national filing is meant any filing that is sufficient to establish the date on which the application was filed, whatever may be the outcome of the application.

(4) A subsequent application for the same subject-matter as a previous first application and filed in or in respect of the same State shall be considered as the first application for the purposes of determining priority, provided that, at the date of filing the subsequent application, the previous application has been withdrawn, abandoned or refused, without being open to public inspection and without leaving any rights outstanding, and has not served as a basis for claiming a right of priority. The previous application may not thereafter serve as a basis for claiming a right of priority.

(5) If the first filing has been made in a State which is not a party to the Paris Convention for the Protection of Industrial Property, paragraphs 1 to 4 shall apply only in so far as that State, according to a notification published by the Administrative Council, and by virtue of bilateral or multilateral agreements, grants on the basis of a first filing made at the European Patent Office as well as on the basis of a first filing made in or for any Contracting State and subject to conditions equivalent to those laid down in the Paris Convention, a right of priority having equivalent effect.

86. člen

Pristojbine za podaljšanje veljavnosti evropske patentne prijave

(1) Za evropske patentne prijave se Evropskemu patentnemu uradu plačujejo pristojbine za podaljšanje veljavnosti v skladu s pravilnikom o izvajanju. Te pristojbine se plačajo za tretje in vsako naslednje leto, šteto od datuma vložitve prijave.

(2) Če pristojbina za podaljšanje veljavnosti ni bila plačana na predpisani datum ali prej, se lahko veljavno plača v šestih mesecih od omenjenega datuma, če se hkrati plača dodatna pristojbina.

(3) Če pristojbina za podaljšanje veljavnosti in dodatna pristojbina nista bili plačani pravočasno, se šteje evropska patentna prijava za umaknjeno. Za odločitev o tem je pristojen Evropski patentni urad sam.

(4) Obveznost plačila pristojbine za podaljšanje veljavnosti preneha s plačilom te pristojbine za leto, v katerem je objavljena omemba podelitve evropskega patenta.

III. poglavje
Prednost87. člen
Prednostna pravica

(1) Oseba, ki je v eni ali za eno od držav pogodbenic Pariške konvencije za varstvo industrijske lastnine pravilno vložila prijavo za patent ali za registracijo uporabnega modela ali za spričevalo o koristnosti ali izumiteljsko spričevalo, ali njen pravni naslednik ima pri vložitvi evropske patentne prijave za isti izum prednostno pravico v obdobju dvanajstih mesecev od datuma vložitve prve prijave.

(2) Vsaka prijava, ki je enakovredna redni državni prijavi po domačem pravu države, v kateri je bila vložena, ali po dvostranskih ali večstranskih sporazumih, vključno s to konvencijo, se prizna kot podlaga za prednostno pravico.

(3) Redna državna prijava je vsaka prijava, ki zadošča za določitev datuma, na katerega je bila vložena, ne glede na končni izid prijave.

(4) Poznejša prijava, ki se nanaša na isti predmet kot prejšnja prva prijava in je vložena v isti državi ali za isto državo, se pri določanju prednosti obravnava kot prva prijava, če je bila na dan vložitve poznejše prijave prejšnja prijava umaknjena, opuščena ali zavrnjena, ne da bi bila dostopna javnosti in ne da bi za seboj puščala kake pravice, in še ni bila podlaga za zahtevo za prednostno pravico. Prejšnja prijava po tem ne more biti več podlaga za zahtevo za prednostno pravico.

(5) Če je prva prijava vložena v državi, ki ni pogodbenica Pariške konvencije za varstvo industrijske lastnine, se prvi do četrte odstavke uporabljajo samo, če ta država v skladu z uradnim obvestilom, ki ga objavi upravni svet, in na podlagi dvostranskih ali večstranskih sporazumov na podlagi prve prijave pri Evropskem patentnem uradu ali prve prijave, vložene v kateri koli državi pogodbenici ali za katero koli državo pogodbenico, in pod pogoji, ki so enakovredni tistim, določenim v Pariški konvenciji, podeli prednostno pravico, ki ima enak učinek.

Article 88

Claiming priority

(1) An applicant for a European patent desiring to take advantage of the priority of a previous application shall file a declaration of priority, a copy of the previous application and, if the language of the latter is not one of the official languages of the European Patent Office, a translation of it in one of such official languages. The procedure to be followed in carrying out these provisions is laid down in the Implementing Regulations.

(2) Multiple priorities may be claimed in respect of a European patent application, notwithstanding the fact that they originated in different countries. Where appropriate, multiple priorities may be claimed for any one claim. Where multiple priorities are claimed, time limits which run from the date of priority shall run from the earliest date of priority.

(3) If one or more priorities are claimed in respect of a European patent application, the right of priority shall cover only those elements of the European patent application which are included in the application or applications whose priority is claimed.

(4) If certain elements of the invention for which priority is claimed do not appear among the claims formulated in the previous application, priority may nonetheless be granted, provided that the documents of the previous application as a whole specifically disclose such elements.

Article 89

Effect of priority right

The right of priority shall have the effect that the date of priority shall count as the date of filing of the European patent application for the purposes of Article 54, paragraphs 2 and 3, and Article 60, paragraph 2.

PART IV

PROCEDURE UP TO GRANT

Article 90

Examination on filing

(1) The Receiving Section shall examine whether:

(a) the European patent application satisfies the requirements for the accordancy of a date of filing;
(b) the filing fee and the search fee have been paid in due time;

(c) in the case provided for in Article 14, paragraph 2, the translation of the European patent application in the language of the proceedings has been filed in due time.

(2) If a date of filing cannot be accorded, the Receiving Section shall give the applicant an opportunity to correct the deficiencies in accordance with the Implementing Regulations. If the deficiencies are not remedied in due time, the application shall not be dealt with as a European patent application.

(3) If the filing fee and the search fee have not been paid in due time or, in the case provided for in Article 14, paragraph 2, the translation of the application in the language of the proceedings has not been filed in due time, the application shall be deemed to be withdrawn.

Article 91

Examination as to formal requirements

(1) If a European patent application has been accorded a date of filing, and is not deemed to be withdrawn by virtue of Article 90, paragraph 3, the Receiving Section shall examine whether:

88. člen

Zahteva za prednost

(1) Prijavitelj evropskega patenta, ki želi izkoristiti prednost prejšnje prijave, mora vložiti izjavo o prednosti, kopijo prejšnje prijave in njen prevod v enem od uradnih jezikov Evropskega patentnega urada, če jezik prejšnje prijave ni eden od uradnih jezikov tega urada. Postopek za izvajanje teh določb je predpisan v pravilniku o izvajanju.

(2) Za evropsko patentno prijavo se lahko zahtevajo večkratne prednosti, tudi če izvirajo iz različnih držav. Kadar je primerno, se lahko večkratne prednosti zahtevajo za posamezen patentni zahtevek. Če so zahtevane večkratne prednosti, se roki, ki začnejo teči od prednostnega datuma, štejejo od najzgodnejšega prednostnega datuma.

(3) Če se za evropsko patentno prijavo zahteva ena ali več prednosti, se prednostna pravica nanaša samo na tiste elemente evropske patentne prijave, ki so vključeni v prijavo ali prijave, katerih prednost se zahteva.

(4) Če nekaterih elementov izuma, za katere se zahteva prednost, ni v patentnih zahtevkih, navedenih v prejšnji prijavi, se lahko prednost kljub temu prizna, če dokumenti prejšnje prijave kot celota natančno razkrivajo take elemente.

89. člen

Učinek prednostne pravice

Učinek prednostne pravice je, da se za namene drugega in tretjega odstavka 54. člena in drugega odstavka 60. člena kot prednostni datum šteje datum vložitve evropske patentne prijave.

IV. DEL

POSTOPEK DO PODELITVE PATENTA

90. člen

Preizkus ob vložitvi

(1) Sprejemna pisarna preizkusi:

(a) ali evropska patentna prijava izpolnjuje pogoje za dodelitev datuma vložitve;

(b) ali sta bili prijavna pristojbina in pristojbina za poizvedbo pravočasno plačani;

(c) ali je bil v primeru iz drugega odstavka 14. člena prevod evropske patentne prijave v jezik postopka pravočasno vložen.

(2) Če datuma vložitve prijave ni mogoče dodeliti, sprejemna pisarna omogoči prijavitelju, da odpravi pomanjkljivosti v skladu s pravilnikom o izvajanju. Če pomanjkljivosti niso pravočasno odpravljene, se prijava ne obravnava kot evropska patentna prijava.

(3) Če prijavna pristojbina in pristojbina za poizvedbo nista bili pravočasno plačani ali če v primeru iz drugega odstavka 14. člena prevod prijave v jezik postopka ni bil pravočasno vložen, se šteje prijava za umaknjeno.

91. člen

Preizkus glede formalnih zahtev

(1) Če je bil evropski patentni prijavi dodeljen datum vložitve in če se ne šteje za umaknjeno po tretjem odstavku 90. člena, sprejemna pisarna preizkusi:

(a) the requirements of Article 133, paragraph 2, have been satisfied;

(b) the application meets the physical requirements laid down in the Implementing Regulations for the implementation of this provision;

(c) the abstract has been filed;

(d) the request for the grant of a European patent satisfies the mandatory provisions of the Implementing Regulations concerning its content and, where appropriate, whether the requirements of this Convention concerning the claim to priority have been satisfied;

(e) the designation fees have been paid;

(f) the designation of the inventor has been made in accordance with Article 81;

(g) the drawings referred to in Article 78, paragraph 1(d), were filed on the date of filing of the application.

(2) Where the Receiving Section notes that there are deficiencies which may be corrected, it shall give the applicant an opportunity to correct them in accordance with the Implementing Regulations.

(3) If any deficiencies noted in the examination under paragraph 1(a) to (d) are not corrected in accordance with the Implementing Regulations, the application shall be refused; where the provisions referred to in paragraph 1(d) concern the right of priority, this right shall be lost for the application.

(4) Where, in the case referred to in paragraph 1(e), the designation fee has not been paid in due time in respect of any designated State, the designation of that State shall be deemed to be withdrawn.

(5) Where, in the case referred to in paragraph 1(f), the omission of the designation of the inventor is not, in accordance with the Implementing Regulations and subject to the exceptions laid down therein, corrected within 16 months after the date of filing of the European patent application or, if priority is claimed, after the date of priority, the application shall be deemed to be withdrawn.

(6) Where, in the case referred to in paragraph 1(g), the drawings were not filed on the date of filing of the application and no steps have been taken to correct the deficiency in accordance with the Implementing Regulations, either the application shall be re-dated to the date of filing of the drawings or any reference to the drawings in the application shall be deemed to be deleted, according to the choice exercised by the applicant in accordance with the Implementing Regulations.

Article 92

The drawing up of the European search report

(1) If a European patent application has been accorded a date of filing and is not deemed to be withdrawn by virtue of Article 90, paragraph 3, the Search Division shall draw up the European search report on the basis of the claims, with due regard to the description and any drawings, in the form prescribed in the Implementing Regulations.

(2) Immediately after it has been drawn up, the European search report shall be transmitted to the applicant together with copies of any cited documents.

(a) ali so izpolnjeni pogoji iz drugega odstavka 133. člena;

(b) ali prijava izpolnjuje pogoje glede oblike, določene v pravilniku o izvajanju glede izvajanja te določbe;

(c) ali je bil vložen povzetek;

(d) ali zahteva za podelitev evropskega patenta izpolnjuje obvezne določbe pravilnika o izvajanju glede vsebine, in kadar je primerno, ali so pogoji te konvencije glede zahtevka za prednost izpolnjeni;

(e) ali so bile plačane pristojbine za imenovanje;

(f) ali je bil izumitelj imenovan v skladu z 81. členom;

(g) ali so bile skice iz pododstavka (d) prvega odstavka 78. člena vložene na dan vložitve prijave.

(2) Kadar sprejemna pisarna ugotovi pomanjkljivosti, ki jih je mogoče odpraviti, omogoči prijavitelju, da jih odpravi v skladu s pravilnikom o izvajanju.

(3) Če se pomanjkljivosti, ki se ugotovijo med preizkusom v skladu s pododstavki (a) do (d) prvega odstavka, ne odpravijo po pravilniku o izvajanju, se prijava zavrže; če določbe, na katere se sklicuje pododstavek (d) prvega odstavka, zadevajo prednostno pravico, prijava to pravico izgubi.

(4) Če v primeru iz pododstavka (e) prvega odstavka pristojbina za imenovanje za katero koli imenovano državo ni bila plačana pravočasno, se šteje imenovanje te države za umaknjeno.

(5) Če v primeru iz pododstavka (f) prvega odstavka opustitev imenovanja izumitelja ni odpravljena v skladu s pravilnikom o izvajanju in ob upoštevanju v njem določenih izjem v šestnajstih mesecih po datumu vložitve evropske patentne prijave ali po prednostnem datumu, če se zahteva prednost, se šteje prijava za umaknjeno.

(6) Če v primeru iz pododstavka (g) prvega odstavka skice niso bile vložene na datum vložitve prijave in če ni bilo nič storjeno za odpravo te pomanjkljivosti v skladu s pravilnikom o izvajanju, se kot datum vložitve prijave šteje datum, ko so bile skice vložene, ali pa se sklicevanje na skice v prijavi šteje za črtano, odvisno od odločitve prijavitelja v skladu s pravilnikom o izvajanju.

92. člen

Sestava evropskega poročila o poizvedbi

(1) Če je bil evropski patentni prijavi dodeljen datum vložitve in se ne šteje za umaknjeno po tretjem odstavku 90. člena, oddelek za poizvedbe na podlagi patentnih zahtevkov in upoštevajoč opis in skice sestavi evropsko poročilo o poizvedbi v obliki, predpisani s pravilnikom o izvajanju.

(2) Evropsko poročilo o poizvedbi se, takoj ko je sestavljeno, pošlje prijavitelju skupaj s kopijami vseh navedenih dokumentov.

Article 93

Publication of a European patent application

(1) A European patent application shall be published as soon as possible after the expiry of a period of eighteen months from the date of filing or, if priority has been claimed, as from the date of priority. Nevertheless, at the request of the applicant the application may be published before the expiry of the period referred to above. It shall be published simultaneously with the publication of the specification of the European patent when the grant of the patent has become effective before the expiry of the period referred to above.

(2) The publication shall contain the description, the claims and any drawings as filed and, in an annex, the European search report and the abstract, in so far as the latter are available before the termination of the technical preparations for publication. If the European search report and the abstract have not been published at the same time as the application, they shall be published separately.

Article 94

Request for examination

(1) The European Patent Office shall examine, on written request, whether a European patent application and the invention to which it relates meet the requirements of this Convention.

(2) A request for examination may be filed by the applicant up to the end of six months after the date on which the European Patent Bulletin mentions the publication of the European search report. The request shall not be deemed to be filed until after the examination fee has been paid. The request may not be withdrawn.

(3) If no request for examination has been filed by the end of the period referred to in paragraph 2, the application shall be deemed to be withdrawn.

Article 95

Extension of the period within which requests for examination may be filed

(1) The Administrative Council may extend the period within which requests for examination may be filed if it is established that European patent applications cannot be examined in due time.

(2) If the Administrative Council extends the period, it may decide that third parties will be entitled to make requests for examination. In such cases, it shall determine the appropriate rules in the Implementing Regulations.

(3) Any decision of the Administrative Council to extend the period shall apply only in respect of applications filed after the publication of such decision in the Official Journal of the European Patent Office.

(4) If the Administrative Council extends the period, it must lay down measures with a view to restoring the original period as soon as possible.

Article 96

Examination of the European patent application

(1) If the applicant for a European patent has filed the request for examination before the European search report has been transmitted to him, the European Patent Office shall invite him after the transmission of the report to indicate, within a period to be determined, whether he desires to proceed further with the European patent application.

93. člen

Objava evropske patentne prijave

(1) Evropska patentna prijava se objavi čim prej po poteku osemnajstih mesecev od datuma vložitve prijave ali od prednostnega datuma, če se zahteva prednost. Na zahtevo prijavitelja se lahko evropska patentna prijava objavi tudi pred potekom tega roka. Če je odločitev o podelitvi evropskega patenta začela veljati pred potekom tega roka, se objavi hkrati z objavo patentnega spisa.

(2) Objava vsebuje opis, patentne zahtevke in skice, kot so bili vloženi, in v prilogi evropsko poročilo o poizvedbi ter povzetek, če sta na voljo, preden se končajo tehnične priprave za objavo. Če evropsko poročilo o poizvedbi in povzetek nista bila objavljena hkrati s prijavo, se objavita posebej.

94. člen

Zahteva za preizkus

(1) Evropski patentni urad na podlagi pisne zahteve preizkusi, ali evropska patentna prijava in izum, na katerega se nanaša, izpolnjujeta pogoje te konvencije.

(2) Prijavitelj lahko vloži zahtevo za preizkus do izteka šestih mesecev po datumu, ko je bila v Evropskem patentnem biltenu omenjena objava evropskega poročila o poizvedbi. Zahteva se ne šteje za vloženo, dokler ni plačana pristojbina za preizkus. Zahteve ni mogoče umakniti.

(3) Če zahteva za preizkus ni bila vložena v roku iz drugega odstavka, se šteje prijava za umaknjeno.

95. člen

Podaljšanje roka za vložitev zahteve za preizkus

(1) Upravni svet lahko podaljša rok za vložitev zahteve za preizkus, če ugotovi, da evropskih patentnih prijav ni mogoče preizkusiti pravočasno.

(2) Če upravni svet podaljša rok, lahko odloči, da imajo tretje osebe pravico vlagati zahteve za preizkus. V takih primerih določi ustrezna pravila v pravilniku o izvajanju.

(3) Vsaka odločitev upravnega sveta za podaljšanje roka se uporablja le za prijave, vložene po objavi take odločitve v Uradnem glasilu Evropskega patentnega urada.

(4) Če upravni svet rok podaljša, mora sprejeti ukrepe za čimprejšnjo vzpostavitev prvotnega roka.

96. člen

Preizkus evropske patentne prijave

(1) Če prijavitelj evropskega patenta vloži zahtevo za preizkus, preden mu je bilo poslano evropsko poročilo o poizvedbi, ga Evropski patentni urad, potem ko je poslal poročilo, pozove, da v določenem roku izjavi, ali želi, da se postopek z evropsko patentno prijavo nadaljuje.

(2) If the examination of a European patent application reveals that the application or the invention to which it relates does not meet the requirements of this Convention, the Examining Division shall invite the applicant, in accordance with the Implementing Regulations and as often as necessary, to file his observations within a period to be fixed by the Examining Division.

(3) If the applicant fails to reply in due time to any invitation under paragraph 1 or paragraph 2, the application shall be deemed to be withdrawn.

Article 97

Refusal or grant

(1) The Examining Division shall refuse a European patent application if it is of the opinion that such application or the invention to which it relates does not meet the requirements of this Convention, except where a different sanction is provided for by this Convention.

(2) If the Examining Division is of the opinion that the application and the invention to which it relates meet the requirements of this Convention, it shall decide to grant the European patent for the designated Contracting States provided that:

(a) it is established, in accordance with the provisions of the Implementing Regulations, that the applicant approves the text in which the Examining Division intends to grant the patent;

(b) the fees for grant and printing are paid within the time limit prescribed in the Implementing Regulations;

(c) the renewal fees and any additional fees already due have been paid.

(3) If the fees for grant and printing are not paid in due time, the application shall be deemed to be withdrawn.

(4) The decision to grant a European patent shall not take effect until the date on which the European Patent Bulletin mentions the grant. This mention shall be published at least 3 months after the start of the time limit referred to in paragraph 2(b).

(5) Provision may be made in the Implementing Regulations for the applicant to file a translation, in the two official languages of the European Patent Office other than the language of the proceedings, of the claims appearing in the text in which the Examining Division intends to grant the patent. In such case, the period laid down in paragraph 4 shall be at least five months. If the translation has not been filed in due time, the application shall be deemed to be withdrawn.

(6) At the request of the applicant, mention of grant of the European patent shall be published before expiry of the time limit under paragraph 4 or 5. Such request may only be made if the requirements pursuant to paragraphs 2 and 5 are met.

Article 98

Publication of a specification of the European patent

At the same time as it publishes the mention of the grant of the European patent, the European Patent Office shall publish a specification of the European patent containing the description, the claims and any drawings.

(2) Če se pri preizkusu evropske patentne prijave ugotovi, da prijava ali izum, na katerega se ta nanaša, ne izpolnjuje pogojev te konvencije, oddelek za preizkuse pozove prijavitelja v skladu s pravilnikom o izvajanju in kolikorkrat je treba, da vloži svoje pripombe v roku, ki ga določi oddelek za preizkuse.

(3) Če prijavitelj ne odgovori pravočasno na poziv po prvem ali drugem odstavku, se šteje prijava za umaknjeno.

97. člen

Zavrnitev ali podelitev

(1) Oddelek za preizkuse zavrne evropsko patentno prijavo, če meni, da prijava ali izum, na katerega se ta nanaša, ne izpolnjuje pogojev te konvencije, razen če ta konvencija ne predvideva drugačne sankcije.

(2) Če oddelek za preizkuse meni, da prijava in izum, na katerega se ta nanaša, izpolnjujeta pogoje te konvencije, se odloči podeliti evropski patent za imenovane države pogodbenice:

(a) če se v skladu z določbami pravilnika o izvajanju ugotovi, da se prijavitelj strinja z besedilom, v katerem namerava oddelek za preizkuse podeliti evropski patent;

(b) če so pristojbine za podelitev patenta in tiskanje patentnega spisa plačane v roku, predpisanem v pravilniku o izvajanju;

(c) če so plačane že zapadle pristojbine za podaljšanje veljavnosti in morebitne dodatne pristojbine.

(3) Če pristojbine za podelitev patenta in tiskanje patentnega spisa niso pravočasno plačane, se šteje prijava za umaknjeno.

(4) Odločitev o podelitvi evropskega patenta začne veljati šele z datumom, ko je v Evropskem patentnem biltenu omenjena podelitev. Ta omemba se objavi vsaj tri mesece po začetku roka iz pododstavka (b) drugega odstavka.

(5) Pravilnik za izvajanje lahko vsebuje določbo, da mora prijavitelj vložiti prevod patentnih zahtevkov, ki se pojavljajo v besedilu, v katerem namerava oddelek za preizkuse podeliti evropski patent, v obeh uradnih jezikih Evropskega patentnega urada, ki nista jezik postopka. V tem primeru je rok, določen v četrtem odstavku, vsaj pet mesecev. Če prevod ni pravočasno vložen, se šteje prijava za umaknjeno.

(6) Na zahtevo prijavitelja se omemba o podelitvi evropskega patenta objavi pred potekom roka po četrtem ali petem odstavku. Taka zahteva se lahko vloži le, če so izpolnjeni pogoji po drugem in petem odstavku.

98. člen

Objava evropskega patentnega spisa

Hkrati z objavo omembe o podelitvi evropskega patenta objavi Evropski patentni urad evropski patentni spis, ki vsebuje opis, patentne zahtevke in morebitne skice.

PART V
OPPOSITION PROCEDURE

Article 99
Opposition

(1) Within nine months from the publication of the mention of the grant of the European patent, any person may give notice to the European Patent Office of opposition to the European patent granted. Notice of opposition shall be filed in a written reasoned statement. It shall not be deemed to have been filed until the opposition fee has been paid.

(2) The opposition shall apply to the European patent in all the Contracting States in which that patent has effect.

(3) An opposition may be filed even if the European patent has been surrendered or has lapsed for all the designated States.

(4) Opponents shall be parties to the opposition proceedings as well as the proprietor of the patent.

(5) Where a person provides evidence that in a Contracting State, following a final decision, he has been entered in the patent register of such State instead of the previous proprietor, such person shall, at his request, replace the previous proprietor in respect of such State. By derogation from Article 118, the previous proprietor and the person making the request shall not be deemed to be joint proprietors unless both so request.

Article 100
Grounds for opposition

Opposition may only be filed on the grounds that:

(a) the subject-matter of the European patent is not patentable within the terms of Articles 52 to 57;

(b) the European patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;

(c) the subject-matter of the European patent extends beyond the content of the application as filed, or, if the patent was granted on a divisional application or on a new application filed in accordance with Article 61, beyond the content of the earlier application as filed.

Article 101
Examination of the opposition

(1) If the opposition is admissible, the Opposition Division shall examine whether the grounds for opposition laid down in Article 100 prejudice the maintenance of the European patent.

(2) In the examination of the opposition, which shall be conducted in accordance with the provisions of the Implementing Regulations, the Opposition Division shall invite the parties, as often as necessary, to file observations, within a period to be fixed by the Opposition Division, on communications from another party or issued by itself.

Article 102
Revocation or maintenance of the European patent

(1) If the Opposition Division is of the opinion that the grounds for opposition mentioned in Article 100 prejudice the maintenance of the European patent, it shall revoke the patent.

(2) If the Opposition Division is of the opinion that the grounds for opposition mentioned in Article 100 do not prejudice the maintenance of the patent unamended, it shall reject the opposition.

V. DEL
POSTOPEK UGOVORA

99. člen
Ugovor

(1) V devetih mesecih od objave omembe podelitve evropskega patenta lahko vsakdo ugovarja pri Evropskem patentnem uradu zoper podeljeni evropski patent. Ugovor se vložijo s pisno obrazložitvijo. Za vloženega se šteje šele tedaj, ko je plačana pristojbina za ugovor.

(2) Ugovor se nanaša na evropski patent v vseh državah pogodbenicah, v katerih ta patent velja.

(3) Ugovor se lahko vložijo tudi, če je imetnik odpovedal evropski patent za vse imenovane države ali je ta v njih prenehal veljati.

(4) Osebe, ki ugovarjajo, in imetnik patenta so stranke v postopku.

(5) Če nekdo predloži dokaz, da je bil v državi pogodbenici na podlagi končne odločitve vpisan v register patentov te države namesto prejšnjega imetnika, za to državo na svojo zahtevo nadomesti prejšnjega imetnika. Ne glede na 118. člen se prejšnji imetnik in oseba, ki vložijo zahtevo, ne štejeta za skupna imetnika, razen če tega oba ne zahtevata.

100. člen
Razlogi za ugovor

Ugovor se lahko vložijo le iz naslednjih razlogov:

(a) če predmeta evropskega patenta ni mogoče patentirati po 52. do 57. členu;

(b) če evropski patent ne razkriva izuma dovolj jasno in popolno, da bi ga strokovnjak lahko izvedel;

(c) če predmet evropskega patenta presega vsebino prijave, kot je bila vložena, ali vsebino prejšnje prijave, kot je bila vložena, če je bil patent podeljen na podlagi izločene prijave ali nove prijave, vložene po 61. členu.

101. člen
Preizkus ugovora

(1) Če je ugovor sprejemljiv, oddelek za ugovore preizkusi, ali razlogi za ugovor, določeni v 100. členu, nasprotujejo vzdrževanju evropskega patenta.

(2) Med preizkusom ugovora, ki poteka v skladu s pravilnikom o izvajanju, oddelek za ugovore pozove stranke, kolikorkrat je treba, da v roku, ki ga določi oddelek za ugovore, vložijo pripombe k sporočilom druge stranke ali njegovim sporočilom.

102. člen
Razveljavitev ali vzdrževanje evropskega patenta

(1) Če oddelek za ugovore meni, da razlogi za ugovor iz 100. člena nasprotujejo vzdrževanju evropskega patenta, tega razveljavi.

(2) Če oddelek za ugovore meni, da razlogi za ugovor iz 100. člena ne nasprotujejo vzdrževanju nespremenjenega patenta, ugovor zavrne.

(3) If the Opposition Division is of the opinion that, taking into consideration the amendments made by the proprietor of the patent during the opposition proceedings, the patent and the invention to which it relates meet the requirements of this Convention, it shall decide to maintain the patent as amended, provided that:

(a) it is established, in accordance with the provisions of the Implementing Regulations, that the proprietor of the patent approves the text in which the Opposition Division intends to maintain the patent;

(b) the fee for the printing of a new specification of the European patent is paid within the time limit prescribed in the Implementing Regulations.

(4) If the fee for the printing of a new specification is not paid in due time, the patent shall be revoked.

(5) Provision may be made in the Implementing Regulations for the proprietor of the patent to file a translation of any amended claims in the two official languages of the European Patent Office other than the language of the proceedings. If the translation has not been filed in due time the patent shall be revoked.

Article 103

Publication of a new specification of the European patent

If a European patent is amended under Article 102, paragraph 3, the European Patent Office shall, at the same time as it publishes the mention of the opposition decision, publish a new specification of the European patent containing the description, the claims and any drawings, in the amended form.

Article 104

Costs

(1) Each party to the proceedings shall meet the costs he has incurred unless a decision of an Opposition Division or Board of Appeal, for reasons of equity, orders, in accordance with the Implementing Regulations, a different apportionment of costs incurred during taking of evidence or in oral proceedings.

(2) On request, the registry of the Opposition Division shall fix the amount of the costs to be paid under a decision apportioning them. The fixing of the costs by the registry may be reviewed by a decision of the Opposition Division on a request filed within the period laid down in the Implementing Regulations.

(3) Any final decision of the European Patent Office fixing the amount of costs shall be dealt with, for the purpose of enforcement in the Contracting States, in the same way as a final decision given by a civil court of the State in the territory of which enforcement is to be carried out. Verification of such decision shall be limited to its authenticity.

Article 105

Intervention of the assumed infringer

(1) In the event of an opposition to a European patent being filed, any third party who proves that proceedings for infringement of the same patent have been instituted against him may, after the opposition period has expired, intervene in the opposition proceedings, if he gives notice of intervention within three months of the date on which the infringement proceedings were instituted. The same shall apply in respect of any third party who proves both that the proprietor of the patent has requested that he cease alleged infringement of the patent and that he has instituted proceedings for a court ruling that he is not infringing the patent.

(3) Če oddelek za ugovore meni, da ob upoštevanju sprememb, ki jih je opravil imetnik patenta v postopku ugovora, patent in izum, na katerega se patent nanaša, izpolnjujeta pogoje te konvencije, se odloči vzdrževati patent, kot je bil spremenjen:

(a) če se v skladu z določbami pravilnika o izvajanju ugotovi, da se imetnik patenta strinja z besedilom, v katerem namerava oddelek za ugovore vzdrževati patent;

(b) če je pristojbina za tiskanje novega evropskega patentnega spisa plačana v roku, predpisanem v pravilniku o izvajanju.

(4) Če pristojbina za tiskanje novega patentnega spisa ni pravočasno plačana, se patent razveljavi.

(5) Pravilnik o izvajanju lahko vsebuje določbo, da mora imetnik patenta vložiti prevod spremenjenih patentnih zahtevkov v obeh uradnih jezikih Evropskega patentnega urada, ki nista jezik postopka. Če prevod ni vložen pravočasno, se patent razveljavi.

103. člen

Objava novega evropskega patentnega spisa

Če je evropski patent spremenjen po tretjem odstavku 102. člena, Evropski patentni urad objavi hkrati z omembo odločitve o ugovoru novi evropski patentni spis, ki vsebuje opis, patentne zahtevke in morebitne skice v spremenjeni obliki.

104. člen

Stroški

(1) Vsaka stranka v postopku plača svoje stroške, razen če oddelek za ugovore ali pritožbeni senat zaradi pravičnosti v skladu s pravilnikom o izvajanju z odločitvijo ne določi drugačne porazdelitve stroškov, nastalih med dokazovanjem ali v ustnem postopku.

(2) Pisarna oddelka za ugovore na zahtevo določi znesek stroškov, ki jih je treba plačati na podlagi odločitve o njihovi porazdelitvi. Znesek stroškov, ki ga je določila pisarna, se lahko na podlagi zahteve, vložene v roku, ki ga določa pravilnik o izvajanju, spremeni z odločitvijo oddelka za ugovore.

(3) Vsaka končna odločitev Evropskega patentnega urada, ki določa znesek stroškov, se za izvrševanje v državah pogodbenicah obravnava enako kot končna odločitev civilnega sodišča države, na ozemlju katere mora biti izvršena. Preverjanje take odločitve je omejeno le na njeno verodostojnost.

105. člen

Posredovanje domnevnega kršitelja

(1) Če je vložen ugovor zoper evropski patent, lahko vsaka tretja oseba, ki dokaže, da je bil proti njej sprožen postopek zaradi kršitve tega patenta, po poteku roka za ugovor posreduje v postopku ugovora, če najavi posredovanje v treh mesecih po datumu, ko je bil sprožen postopek zaradi kršitve. To velja tudi za vsako tretjo osebo, ki dokaže, da je imetnik patenta zahteval, naj preneha z domnevno kršitvijo patenta, in da je sprožila postopek pred sodiščem, v katerem naj se ugotovi, da ne krši patenta.

(2) Notice of intervention shall be filed in a written reasoned statement. It shall not be deemed to have been filed until the opposition fee has been paid. Thereafter the intervention shall, subject to any exceptions laid down in the Implementing Regulations, be treated as an opposition.

PART VI APPEALS PROCEDURE

Article 106

Decisions subject to appeal

(1) An appeal shall lie from decisions of the Receiving Section, Examining Divisions, Opposition Divisions and the Legal Division. It shall have suspensive effect.

(2) An appeal may be filed against the decision of the Opposition Division even if the European patent has been surrendered or has lapsed for all the designated States.

(3) A decision which does not terminate proceedings as regards one of the parties can only be appealed together with the final decision, unless the decision allows separate appeal.

(4) The apportionment of costs of opposition proceedings cannot be the sole subject of an appeal.

(5) A decision fixing the amount of costs of opposition proceedings cannot be appealed unless the amount is in excess of that laid down in the Rules relating to Fees.

Article 107

Persons entitled to appeal and to be parties to appeal proceedings

Any party to proceedings adversely affected by a decision may appeal. Any other parties to the proceedings shall be parties to the appeal proceedings as of right.

Article 108

Time limit and form of appeal

Notice of appeal must be filed in writing at the European Patent Office within two months after the date of notification of the decision appealed from. The notice shall not be deemed to have been filed until after the fee for appeal has been paid. Within four months after the date of notification of the decision, a written statement setting out the grounds of appeal must be filed.

Article 109

Interlocutory revision

(1) If the department whose decision is contested considers the appeal to be admissible and well founded, it shall rectify its decision. This shall not apply where the appellant is opposed by another party to the proceedings.

(2) If the appeal is not allowed within three months after receipt of the statement of grounds, it shall be remitted to the Board of Appeal without delay, and without comment as to its merit.

Article 110

Examination of appeals

(1) If the appeal is admissible, the Board of Appeal shall examine whether the appeal is allowable.

(2) In the examination of the appeal, which shall be conducted in accordance with the provisions of the Implementing Regulations, the Board of Appeal shall invite the parties, as often as necessary, to file observations, within a period to be fixed by the Board of Appeal, on communications from another party or issued by itself.

(2) Najava posredovanja se vložijo pisno obrazložitvijo. Ta se šteje za vloženo po plačilu pristojbine za ugovor. Po tem se posredovanje obravnava kot ugovor ob upoštevanju izjem iz pravilnika o izvajanju.

VI. DEL PRITOŽBENI POSTOPEK

106. člen

Odločitve, zoper katere je možna pritožba

(1) Pritožba se lahko vložijo zoper odločitve sprejemne pisarne, oddelkov za preizkuse, oddelkov za ugovore in pravnega oddelka. Pritožba zadrži izvršitev.

(2) Pritožba zoper odločitev oddelka za ugovore se lahko vložijo tudi, če je imetnik odpovedal evropski patent za vse imenovane države ali je ta v njih prenehal veljati.

(3) Zoper odločitev, s katero se ne konča postopek za eno od strank, je možna pritožba le ob končni odločitvi, razen če omenjena odločitev ne dopušča ločene pritožbe.

(4) Porazdelitev stroškov postopka ugovora ne more biti edini predmet pritožbe.

(5) Zoper odločitev o znesku stroškov postopka ugovora je možna pritožba le, če je znesek večji od zneska, določenega s pravilnikom o pristojbinah.

107. člen

Osebe, ki se smejo pritožiti in biti stranke v pritožbenem postopku

Vsaka stranka v postopku, ki ji z odločitvijo ni bilo ugodeno, se lahko pritožijo. Druge stranke v tem postopku so z vso pravico stranke tudi v pritožbenem postopku.

108. člen

Rok in oblika pritožbe

Pritožbo je treba vložiti pisno pri Evropskem patentnem uradu v dveh mesecih po datumu uradnega obvestila o odločitvi, ki je predmet pritožbe. Pritožba se ne šteje za vloženo, dokler ni plačana pristojbina za pritožbo. V štirih mesecih po datumu uradnega obvestila o odločitvi je treba vložiti pisno obrazložitev razlogov za pritožbo.

109. člen

Začasna revizija

(1) Če oddelek, katerega odločitev je izpodbijana, meni, da je pritožba sprejemljiva in utemeljena, popravi svojo odločitev. To ne velja, kadar pritožniku nasprotuje druga stranka v postopku.

(2) Če pritožba ni dopustna v treh mesecih po prejemu obrazložitve, jo je treba nemudoma poslati pritožbenemu senatu brez mnenja o njeni utemeljenosti.

110. člen

Preizkus pritožb

(1) Če je pritožba sprejemljiva, pritožbeni senat prouči njeno dopustnost.

(2) Med preizkusom pritožbe, ki poteka v skladu z določbami pravilnika o izvajanju, pritožbeni senat pozove stranke, kolikor je treba, da v roku, ki ga določi, vložijo pripombe k sporočilom druge stranke ali njegovim sporočilom.

(3) If the applicant fails to reply in due time to an invitation under paragraph 2, the European patent application shall be deemed to be withdrawn, unless the decision under appeal was taken by the Legal Division.

Article 111

Decision in respect of appeals

(1) Following the examination as to the allowability of the appeal, the Board of Appeal shall decide on the appeal. The Board of Appeal may either exercise any power within the competence of the department which was responsible for the decision appealed or remit the case to that department for further prosecution.

(2) If the Board of Appeal remits the case for further prosecution to the department whose decision was appealed, that department shall be bound by the ratio decidendi of the Board of Appeal, in so far as the facts are the same. If the decision which was appealed emanated from the Receiving Section, the Examining Division shall similarly be bound by the ratio decidendi of the Board of Appeal.

Article 112

Decision or opinion of the Enlarged Board of Appeal

(1) In order to ensure uniform application of the law, or if an important point of law arises:

(a) the Board of Appeal shall, during proceedings on a case and either of its own motion or following a request from a party to the appeal, refer any question to the Enlarged Board of Appeal if it considers that a decision is required for the above purposes. If the Board of Appeal rejects the request, it shall give the reasons in its final decision;

(b) the President of the European Patent Office may refer a point of law to the Enlarged Board of Appeal where two Boards of Appeal have given different decisions on that question.

(2) In the cases covered by paragraph 1(a) the parties to the appeal proceedings shall be parties to the proceedings before the Enlarged Board of Appeal.

(3) The decision of the Enlarged Board of Appeal referred to in paragraph 1(a) shall be binding on the Board of Appeal in respect of the appeal in question.

PART VII COMMON PROVISIONS

Chapter I Common provisions governing procedure

Article 113

Basis of decisions

(1) The decisions of the European Patent Office may only be based on grounds or evidence on which the parties concerned have had an opportunity to present their comments.

(2) The European Patent Office shall consider and decide upon the European patent application or the European patent only in the text submitted to it, or agreed, by the applicant for or proprietor of the patent.

(3) Če se prijavitelj ne odzove pravočasno na poziv iz drugega odstavka, se šteje evropska patentna prijava za umaknjeno, razen če izpodbijane odločitve ni sprejel pravni oddelek.

111. člen

Odločitev v zvezi s pritožbami

(1) Po preizkusu dopustnosti pritožbe pritožbeni senat odloči o njej. Pritožbeni senat lahko deluje v okviru pooblastil, ki so v pristojnosti oddelka, odgovornega za izpodbijano odločitev, ali pa vrne zadevo temu oddelku v nadaljnji postopek.

(2) Če pritožbeni senat vrne zadevo v nadaljnji postopek oddelku, katerega odločitev je bila izpodbijana, zavezuje pravno mnenje pritožbenega senata ta oddelek, če so dejstva enaka. Če je izpodbijano odločitev sprejela sprejemna pisarna, oddelek za preizkuse prav tako zavezuje pravno mnenje pritožbenega senata.

112. člen

Odločitev ali mnenje razširjenega pritožbenega senata

(1) Da bi se zagotovila enotna uporaba prava ali če se pojavi pomembno pravno vprašanje:

(a) pritožbeni senat v postopku obravnave bodisi na lastno pobudo bodisi na zahtevo stranke v pritožbenem postopku predloži zadevo razširjenemu pritožbenemu senatu, če meni, da je v zvezi z zgoraj navedenim potrebna odločitev. Če pritožbeni senat zahtevo zavrne, mora v končni odločitvi navesti razloge;

(b) predsednik Evropskega patentnega urada lahko predloži pravno vprašanje razširjenemu pritožbenemu senatu, kadar sta dva pritožbena senata o tem vprašanju različno odločila.

(2) V primerih iz pododstavka (a) prvega odstavka so stranke v pritožbenem postopku stranke v postopku pri razširjenem pritožbenem senatu.

(3) Odločitev razširjenega pritožbenega senata, omejena v pododstavku (a) prvega odstavka, zavezuje pritožbeni senat glede obravnavane pritožbe.

VII. DEL SKUPNE DOLOČBE

I. poglavje Splošne določbe postopka

113. člen

Podlaga za odločitve

(1) Odločitve Evropskega patentnega urada lahko temeljijo le na razlogih ali dokazih, o katerih so prizadete stranke lahko izrekle mnenje.

(2) Evropski patentni urad obravnava evropsko patentno prijavo ali evropski patent ter o njej odloča le na podlagi besedila, ki ga je predložil ali sprejel prijavitelj ali imetnik patenta.

Article 114

Examination by the European Patent Office of its own motion

(1) In proceedings before it, the European Patent Office shall examine the facts of its own motion; it shall not be restricted in this examination to the facts, evidence and arguments provided by the parties and the relief sought.

(2) The European Patent Office may disregard facts or evidence which are not submitted in due time by the parties concerned.

Article 115

Observations by third parties

(1) Following the publication of the European patent application, any person may present observations concerning the patentability of the invention in respect of which the application has been filed. Such observations must be filed in writing and must include a statement of the grounds on which they are based. That person shall not be a party to the proceedings before the European Patent Office.

(2) The observations referred to in paragraph 1 shall be communicated to the applicant for or proprietor of the patent who may comment on them.

Article 116

Oral proceedings

(1) Oral proceedings shall take place either at the instance of the European Patent Office if it considers this to be expedient or at the request of any party to the proceedings. However, the European Patent Office may reject a request for further oral proceedings before the same department where the parties and the subject of the proceedings are the same.

(2) Nevertheless, oral proceedings shall take place before the Receiving Section at the request of the applicant only where the Receiving Section considers this to be expedient or where it envisages refusing the European patent application.

(3) Oral proceedings before the Receiving Section, the Examining Divisions and the Legal Division shall not be public.

(4) Oral proceedings, including delivery of the decision, shall be public, as regards the Boards of Appeal and the Enlarged Board of Appeal, after publication of the European patent application, and also before the Opposition Divisions, in so far as the department before which the proceedings are taking place does not decide otherwise in cases where admission of the public could have serious and unjustified disadvantages, in particular for a party to the proceedings.

Article 117

Taking of evidence

(1) In any proceedings before an Examining Division, an Opposition Division, the Legal Division or a Board of Appeal the means of giving or obtaining evidence shall include the following:

- (a) hearing the parties;
- (b) requests for information;
- (c) the production of documents;
- (d) hearing the witnesses;
- (e) opinions by experts;
- (f) inspection;
- (g) sworn statements in writing.

114. člen

Preizkus Evropskega patentnega urada na lastno pobudo

(1) V postopku Evropski patentni urad preveri dejstva na lastno pobudo; to preverjanje ni omejeno na dejstva, dokaze in trditve, ki so jih predložile stranke v podporo svojemu zahtevku.

(2) Evropskemu patentnemu uradu ni treba upoštevati dejstev ali dokazov, ki jih prizadete stranke ne predložijo pravočasno.

115. člen

Pripombe tretjih oseb

(1) Po objavi evropske patentne prijave lahko da vsaka oseba pripombe v zvezi z možnostjo patentiranja izuma, za katerega je bila vložena prijava. Pripombe morajo biti vložene v pisni obliki in vsebovati obrazložitev. Taka oseba ni stranka v postopku pri Evropskem patentnem uradu.

(2) Pripombe iz prvega odstavka se sporočijo prijavitelju ali imetniku patenta, ki o njih lahko da svoje mnenje.

116. člen

Ustna obravnava

(1) Ustna obravnava se začne na zahtevo Evropskega patentnega urada, če ta meni, da je to koristno, ali na zahtevo stranke v postopku. Evropski patentni urad lahko zavrne zahtevo za ponovno ustno obravnavo pri istem oddelku, če so stranke in predmet postopka isti.

(2) Ustna obravnava se na zahtevo prijavitelja vodi pri sprejemni pisarni samo, če je to po njenem mnenju koristno ali če namerava zavrniti evropsko patentno prijavo.

(3) Ustna obravnava pri sprejemni pisarni, oddelkih za preizkuse in pravnem oddelku ni javna.

(4) Ustna obravnava, vključno z izrekom odločitve, je javna pri pritožbenih senatih in razširjenem pritožbenem senatu po objavi evropske patentne prijave, pa tudi pri oddelku za ugovore, razen če oddelek, pri katerem obravnava poteka, ne odloči drugače v primerih, ko bi pripustitev javnosti lahko povzročila resno in neupravičeno škodo zlasti za stranko v postopku.

117. člen

Izvajanje dokazov

(1) V postopkih pri oddelku za preizkuse, oddelku za ugovore, pravnem oddelku ali pritožbenem senatu se uporabljajo naslednja dokazna sredstva:

- (a) zaslišanje strank,
- (b) zahteve za podatke,
- (c) predložitev listin,
- (d) zaslišanje prič,
- (e) izvedenska mnenja,
- (f) ogled,
- (g) zaprisežene pisne izjave.

(2) The Examining Division, Opposition Division or Board of Appeal may commission one of its members to examine the evidence adduced.

(3) If the European Patent Office considers it necessary for a party, witness or expert to give evidence orally, it shall either:

(a) issue a summons to the person concerned to appear before it, or

(b) request, in accordance with the provisions of Article 131, paragraph 2, the competent court in the country of residence of the person concerned to take such evidence.

(4) A party, witness or expert who is summoned before the European Patent Office may request the latter to allow his evidence to be heard by a competent court in his country of residence. On receipt of such a request, or if there has been no reply to the summons by the expiry of a period fixed by the European Patent Office in the summons, the European Patent Office may, in accordance with the provisions of Article 131, paragraph 2, request the competent court to hear the person concerned.

(5) If a party, witness or expert gives evidence before the European Patent Office, the latter may, if it considers it advisable for the evidence to be given on oath or in an equally binding form, request the competent court in the country of residence of the person concerned to re-examine his evidence under such conditions.

(6) When the European Patent Office requests a competent court to take evidence, it may request the court to take the evidence on oath or in an equally binding form and to permit a member of the department concerned to attend the hearing and question the party, witness or expert either through the intermediary of the court or directly.

Article 118

Unity of the European patent application or European patent

Where the applicants for or proprietors of a European patent are not the same in respect of different designated Contracting States, they shall be regarded as joint applicants or proprietors for the purposes of proceedings before the European Patent Office. The unity of the application or patent in these proceedings shall not be affected; in particular the text of the application or patent shall be uniform for all designated Contracting States unless otherwise provided for in this Convention.

Article 119

Notification

The European Patent Office shall, as a matter of course, notify those concerned of decisions and summonses, and of any notice or other communication from which a time limit is reckoned, or of which those concerned must be notified under other provisions of this Convention, or of which notification has been ordered by the President of the European Patent Office. Notifications may, where exceptional circumstances so require, be given through the intermediary of the central industrial property offices of the Contracting States.

(2) Oddelek za preizkuse, oddelek za ugovore ali pritožbeni senat lahko pooblasti enega od svojih članov, da preveri navedene dokaze.

(3) Če je po mnenju Evropskega patentnega urada treba, da stranka, priča ali izvedenec ustno priča:

(a) tako osebo povabi, da pride pred Evropski patentni urad, ali

(b) zahteva v skladu z drugim odstavkom 131. člena od pristojnega sodišča države, v kateri ta oseba stalno prebiva, da jo zasliši.

(4) Stranka, priča ali izvedenec, ki ga je Evropski patentni urad povabil predse, lahko od urada zahteva dovoljenje, da ga zasliši pristojno sodišče države, v kateri stalno prebiva. Po prejemu te zahteve ali če se povabljeni ni odzval v roku, ki ga je Evropski patentni urad v vabilu določil, lahko ta v skladu z drugim odstavkom 131. člena od pristojnega sodišča zahteva, da tako osebo zasliši.

(5) Če stranka, priča ali izvedenec priča pred Evropskim patentnim uradom, lahko ta, če je po njegovem mnenju priporočljivo, da se priča pod prisego ali na drug enako zavezujoč način, zahteva od pristojnega sodišča države, v kateri taka oseba stalno prebiva, da jo znova zasliši pod takimi pogoji.

(6) Če Evropski patentni urad zahteva zaslihanje pri pristojnem sodišču, lahko od tega zahteva, da izvede zaslihanje pod prisego ali na drug enako zavezujoč način in da dovoli članu oddelka, ki ga to zadeva, da je navzoč pri zaslišanju stranke, priče ali izvedenca in da jim postavlja vprašanja bodisi s posredovanjem sodišča ali neposredno.

118. člen

Enotnost evropske patentne prijave ali evropskega patenta

Če prijavitelji ali imetniki evropskega patenta za različne imenovane države pogodbenice niso isti, se v postopku pri Evropskem patentnem uradu obravnavajo kot skupni prijavitelji ali imetniki. Enotnost prijave ali patenta v tem postopku ni prizadeta; zlasti mora biti za vse imenovane države pogodbenice enotno besedilo prijave ali patenta, razen če s to konvencijo ni drugače določeno.

119. člen

Uradno obveščanje

Evropski patentni urad po uradni dolžnosti uradno obvešča vse prizadete o odločitvah in vabilih ter obvestilih in drugih sporočilih, od katerih se štejejo roki ali o katerih morajo biti prizadeti uradno obveščeni po drugih določbah te konvencije ali je njihovo uradno obveščanje predpisal predsednik Evropskega patentnega urada. Kadar to zahtevajo izjemne okoliščine, se uradna obvestila dajejo s posredovanjem osrednjih uradov za industrijsko lastnino držav pogodbenic.

Article 120

Time limits

The Implementing Regulations shall specify:

(a) the manner of computation of time limits and the conditions under which such time limits may be extended, either because the European Patent Office or the authorities referred to in Article 75, paragraph 1(b), are not open to receive documents or because mail is not delivered in the localities in which the European Patent Office or such authorities are situated or because postal services are generally interrupted or subsequently dislocated;

(b) the minima and maxima for time limits to be determined by the European Patent Office.

Article 121

Further processing of the European patent application

(1) If the European patent application is to be refused or is refused or deemed to be withdrawn following failure to reply within a time limit set by the European Patent Office, the legal consequence provided for shall not ensue or, if it has already ensued, shall be retracted if the applicant requests further processing of the application.

(2) The request shall be filed in writing within two months of the date on which either the decision to refuse the application or the communication that the application is deemed to be withdrawn was notified. The omitted act must be completed within this time limit. The request shall not be deemed to have been filed until the fee for further processing has been paid.

(3) The department competent to decide on the omitted act shall decide on the request.

Article 122

Restitutio in integrum

(1) The applicant for or proprietor of a European patent who, in spite of all due care required by the circumstances having been taken, was unable to observe a time limit vis-à-vis the European Patent Office shall, upon application, have his rights re-established if the non-observance in question has the direct consequence, by virtue of this Convention, of causing the refusal of the European patent application, or of a request, or the deeming of the European patent application to have been withdrawn, or the revocation of the European patent, or the loss of any other right or means of redress.

(2) The application must be filed in writing within two months from the removal of the cause of non-compliance with the time limit. The omitted act must be completed within this period. The application shall only be admissible within the year immediately following the expiry of the unobserved time limit. In the case of non-payment of a renewal fee, the period specified in Article 86, paragraph 2, shall be deducted from the period of one year.

(3) The application must state the grounds on which it is based, and must set out the facts on which it relies. It shall not be deemed to be filed until after the fee for re-establishment of rights has been paid.

(4) The department competent to decide on the omitted act shall decide upon the application.

(5) The provisions of this Article shall not be applicable to the time limits referred to in paragraph 2 of this Article, Article 61, paragraph 3, Article 76, paragraph 3, Article 78, paragraph 2, Article 79, paragraph 2, Article 87, paragraph 1, and Article 94, paragraph 2.

120. člen

Roki

Pravilnik o izvajanju natančno določa:

(a) način izračunavanja rokov in pogoje, pod katerimi se ti lahko podaljšajo, bodisi zato ker Evropski patentni urad ali organi iz pododstavka (b) prvega odstavka 75. člena niso odprti za sprejemanje dokumentov ali ker ne deluje poštna dostava v krajih, v katerih se nahajajo Evropski patentni urad ali taki organi, ali zaradi splošne prekinitve poštnih storitev ali posledičnih motenj;

(b) najkrajše in najdaljše roke, ki jih določi Evropski patentni urad.

121. člen

Nadaljevanje postopka v zvezi z evropsko patentno prijavo

(1) Če je treba evropsko patentno prijavo zavrniti ali je že zavrnjena ali se šteje za umaknjeno, ker ni bilo odgovora v roku, ki ga je določil Evropski patentni urad, predvidene pravne posledice ne nastopijo, če pa so že nastopile, se opustijo, če prijavitelj zahteva nadaljevanje postopka v zvezi s prijavo.

(2) Zahtevo je treba vložiti v pisni obliki v dveh mesecih od dneva uradnega obvestila o odločitvi, da je prijava zavrnjena, ali o sporočilu, da se prijava šteje za umaknjeno. Opuščeno dejanje je treba opraviti v tem roku. Zahteva se šteje za vloženo šele po plačilu pristojbine za nadaljevanje postopka.

(3) Oddelek, ki je pristojen za odločanje o opuščnem dejanju, odloči o zahtevi.

122. člen

Vrnitev v prejšnje stanje

(1) Prijavitelju ali imetniku evropskega patenta, ki kljub potrebni skrbnosti, ki so jo narekovala okoliščine, ni mogel upoštevati roka Evropskega patentnega urada, se na zahtevo ponovno vzpostavijo njegove pravice, če je neposredna posledica neupoštevanja roka po tej konvenciji zavrnitev evropske patentne prijave ali kake zahteve ali dejstvo, da se evropska patentna prijava šteje za umaknjeno, ali razveljavitev evropskega patenta ali izguba kake druge pravice ali pravnega sredstva.

(2) Zahtevo je treba vložiti v pisni obliki v dveh mesecih po prenehanju razloga za neupoštevanje roka. Opuščeno dejanje je treba opraviti v tem času. Zahteva se lahko vloži le v obdobju enega leta po poteku neupoštevanega roka. Če ni bila plačana pristojbina za podaljšanje veljavnosti, se rok iz drugega odstavka 86. člena odšteje od dobe enega leta.

(3) V zahtevi morajo biti navedeni razlogi zanjo in dejstva, na katere se sklicuje. Za vloženo se šteje šele po plačilu pristojbine za ponovno vzpostavitev pravic.

(4) Oddelek, ki je pristojen za odločanje o opuščnem dejanju, odloči o zahtevi.

(5) Določbe tega člena se ne uporabljajo za roke iz drugega odstavka tega člena, tretjega odstavka 61. člena, tretjega odstavka 76. člena, drugega odstavka 78. člena, drugega odstavka 79. člena, prvega odstavka 87. člena in drugega odstavka 94. člena.

(6) Any person who, in a designated Contracting State, in good faith has used or made effective and serious preparations for using an invention which is the subject of a published European patent application or a European patent in the course of the period between the loss of rights referred to in paragraph 1 and publication of the mention of re-establishment of those rights, may without payment continue such use in the course of his business or for the needs thereof.

(7) Nothing in this Article shall limit the right of a Contracting State to grant restitution in integrum in respect of time limits provided for in this Convention and to be observed vis-à-vis the authorities of such State.

Article 123 Amendments

(1) The conditions under which a European patent application or a European patent may be amended in proceedings before the European Patent Office are laid down in the Implementing Regulations. In any case, an applicant shall be allowed at least one opportunity of amending the description, claims and drawings of his own volition.

(2) A European patent application or a European patent may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed.

(3) The claims of the European patent may not be amended during opposition proceedings in such a way as to extend the protection conferred.

Article 124

Information concerning national patent applications

(1) The Examining Division or the Board of Appeal may invite the applicant to indicate, within a period to be determined by it, the States in which he has made applications for national patents for the whole or part of the invention to which the European patent application relates, and to give the reference numbers of the said applications.

(2) If the applicant fails to reply in due time to an invitation under paragraph 1, the European patent application shall be deemed to be withdrawn.

Article 125

Reference to general principles

In the absence of procedural provisions in this Convention, the European Patent Office shall take into account the principles of procedural law generally recognised in the Contracting States.

Article 126

Termination of financial obligations

(1) Rights of the Organisation to the payment of a fee to the European Patent Office shall be extinguished after four years from the end of the calendar year in which the fee fell due.

(2) Rights against the Organisation for the refunding by the European Patent Office of fees or sums of money paid in excess of a fee shall be extinguished after four years from the end of the calendar year in which the right arose.

(3) The period laid down in paragraphs 1 and 2 shall be interrupted in the case covered by paragraph 1 by a request for payment of the fee and in the case covered by paragraph 2 by a reasoned claim in writing. On interruption it shall begin again immediately and shall end at the latest six years after the end of the year in which it originally began, unless, in the meantime, judicial proceedings to enforce the right have begun; in this case the period shall end at the earliest one year after the judgment enters into force.

(6) Vsakdo, ki je v imenovani državi pogodbenici v obdobju med izgubo pravic iz prvega odstavka in objavo omembe o ponovni vzpostavitvi teh pravic v dobri veri uporabljal izum, ki je predmet objavljene evropske patentne prijave ali evropskega patenta, ali opravil učinkovite in resne priprave za njegovo uporabo, lahko brezplačno nadaljuje s tako uporabo v svojem poslovanju ali za potrebe tega poslovanja.

(7) Ta člen ne omejuje pravice države pogodbenice, da dovoli vrnitev v prejšnje stanje za roke, predvidene s to konvencijo, ki jih je treba upoštevati v odnosu do organov te države.

123. člen Spremembe

(1) Pogoji, pod katerimi se lahko evropska patentna prijava ali evropski patent spremeni v postopku pri Evropskem patentnem uradu, so predpisani v pravilniku o izvajanju. V vsakem primeru mora biti prijavitelju dopuščena vsaj ena priložnost, da na lastno pobudo spremeni opis, patentne zahtevke in skice.

(2) Evropske patentne prijave ali evropskega patenta ni mogoče spremeniti tako, da bi njun predmet presegal vsebino prijave, kot je bila vložena.

(3) Evropskih patentnih zahtevkov v postopku ugovora ni mogoče spremeniti tako, da bi se razširilo podeljeno varstvo.

124. člen

Podatki o državnih patentnih prijavah

(1) Oddelek za preizkuse ali pritožbeni senat lahko pozove prijavitelja, da v roku, ki ga določi, navede države, v katerih je vložil državne patentne prijave za celotni izum, na katerega se nanaša evropska patentna prijava, ali njegov del, in številke vloženi prijav.

(2) Če prijavitelj ne odgovori pravočasno na poziv iz prvega odstavka, se šteje evropska patentna prijava za umaknjeno.

125. člen

Sklicevanje na splošna načela

Če v tej konvenciji kake postopkovne določbe ni, upošteva Evropski patentni urad načela postopkovnega prava, ki so splošno sprejeta v državah pogodbenicah.

126. člen

Prenehanje finančnih obveznosti

(1) Pravica Organizacije do plačila pristojbine v korist Evropskega patentnega urada ugasne po štirih letih od konca koledarskega leta, v katerem pristojbina zapade v plačilo.

(2) Pravica Evropskega patentnega urada, da mu Organizacija povrne pristojbine ali zneske preplačanih pristojbin, ugasne po štirih letih od konca koledarskega leta, v katerem je ta pravica nastala.

(3) Rok, določen v prvem in drugem odstavku, se prekine v primeru iz prvega odstavka z zahtevo za plačilo pristojbine, v primeru iz drugega odstavka pa z obrazloženo zahtevo v pisni obliki. Takoj po prekinitvi začne rok spet teči in poteče najkasneje v šestih letih po koncu leta, v katerem se je prvotno začel, razen če se medtem ni začel sodni postopek za uveljavitev pravice; v tem primeru rok ne poteče pred enim letom po uveljavitvi sodbe.

Chapter II
Information to the public or official authorities

Article 127

Register of European Patents

The European Patent Office shall keep a register, to be known as the Register of European Patents, which shall contain those particulars the registration of which is provided for by this Convention. No entry shall be made in the Register prior to the publication of the European patent application. The Register shall be open to public inspection.

Article 128

Inspection of files

(1) The files relating to European patent applications, which have not yet been published, shall not be made available for inspection without the consent of the applicant.

(2) Any person who can prove that the applicant for a European patent has invoked the rights under the application against him may obtain inspection of the files prior to the publication of that application and without the consent of the applicant.

(3) Where a European divisional application or a new European patent application filed under Article 61, paragraph 1, is published, any person may obtain inspection of the files of the earlier application prior to the publication of that application and without the consent of the relevant applicant.

(4) Subsequent to the publication of the European patent application, the files relating to such application and the resulting European patent may be inspected on request, subject to the restrictions laid down in the Implementing Regulations.

(5) Even prior to the publication of the European patent application, the European Patent Office may communicate the following bibliographic data to third parties or publish them:

- (a) the number of the European patent application;
- (b) the date of filing of the European patent application and, where the priority of a previous application is claimed, the date, State and file number of the previous application;
- (c) the name of the applicant;
- (d) the title of the invention;
- (e) the Contracting States designated.

Article 129

Periodical publications

The European Patent Office shall periodically publish:

- (a) a European Patent Bulletin containing entries made in the Register of European Patents, as well as other particulars the publication of which is prescribed by this Convention;
- (b) an Official Journal of the European Patent Office, containing notices and information of a general character issued by the President of the European Patent Office, as well as any other information relevant to this Convention or its implementation.

Article 130

Exchanges of information

(1) The European Patent Office and, subject to the application of the legislative or regulatory provisions referred to in Article 75, paragraph 2, the central industrial property office of any Contracting State shall, on request, communicate to each other any useful information regarding the filing of European or national patent applications and regarding any proceedings concerning such applications and the resulting patents.

II. poglavje
Obveščanje javnosti ali uradnih organov

127. člen

Evropski patentni register

Evropski patentni urad vodi register, ki se imenuje evropski patentni register in vsebuje tiste podatke, katerih registracija je predvidena s to konvencijo. Noben vpis v register ni možen pred objavo evropske patentne prijave. Register je dostopen javnosti.

128. člen

Vpogled v dokumentacijo

(1) Vpogled v dokumentacijo, ki se nanaša na evropske patentne prijave, ki še niso bile objavljene, ni možen brez soglasja prijavitelja.

(2) Vsakdo, ki lahko dokaže, da je prijavitelj evropskega patenta proti njemu uveljavljal pravice iz prijave, ima pravico pregledati dokumentacijo pred objavo te prijave in brez soglasja prijavitelja.

(3) Če je evropska izločena prijava ali nova evropska patentna prijava, vložena na podlagi prvega odstavka 61. člena, objavljena, lahko vsakdo pregleda dokumentacijo prejšnje prijave pred njeno objavo in brez soglasja zadevnega prijavitelja.

(4) Po objavi evropske patentne prijave je na zahtevo možen vpogled v dokumentacijo te prijave in evropskega patenta, podeljenega na njeni podlagi, ob upoštevanju omejitev iz pravilnika o izvajanju.

(5) Evropski patentni urad lahko celo pred objavo evropske patentne prijave sporoči tretjim osebam ali objavi naslednje bibliografske podatke:

- (a) številko evropske patentne prijave;
- (b) datum vložitve evropske patentne prijave, in če se zahteva prednost prejšnje prijave, datum, državo in številko vložitve prejšnje prijave;
- (c) ime prijavitelja;
- (d) naziv izuma;
- (e) imenovane države pogodbenice.

129. člen

Periodične objave

Evropski patentni urad periodično objavlja:

- (a) Evropski patentni bilten, ki vsebuje vpise v evropski patentni register in druge podatke, katerih objavljanje je predpisano s to konvencijo;
- (b) Uradno glasilo Evropskega patentnega urada, ki vsebuje obvestila in informacije splošne narave, ki jih je dal predsednik Evropskega patentnega urada, in druge informacije v zvezi s to konvencijo in njenim izvajanjem.

130. člen

Izmenjava informacij

(1) Evropski patentni urad in ob upoštevanju uporabe zakonskih ali podzakonskih določb iz drugega odstavka 75. člena osrednji urad za industrijsko lastnino države pogodbenice si na zahtevo sporočata vse koristne informacije o vlaganju evropskih ali državnih patentnih prijav in o vseh postopkih v zvezi s temi prijavami ter o patentih, podeljenih na njihovi podlagi.

(2) The provisions of paragraph 1 shall apply to the communication of information by virtue of working agreements between the European Patent Office and:

(a) the central industrial property office of any State which is not a party to this Convention;

(b) any inter-governmental organisation entrusted with the task of granting patents;

(c) any other organisation.

(3) The communications under paragraphs 1 and 2(a) and (b) shall not be subject to the restrictions laid down in Article 128. The Administrative Council may decide that communications under paragraph 2© shall not be subject to such restrictions, provided that the organisation concerned shall treat the information communicated as confidential until the European patent application has been published.

Article 131

Administrative and legal co-operation

(1) Unless otherwise provided in this Convention or in national laws, the European Patent Office and the courts or authorities of Contracting States shall on request give assistance to each other by communicating information or opening files for inspection. Where the European Patent Office lays files open to inspection by courts, Public Prosecutors' Offices or central industrial property offices, the inspection shall not be subject to the restrictions laid down in Article 128.

(2) Upon receipt of letters rogatory from the European Patent Office, the courts or other competent authorities of Contracting States shall undertake, on behalf of that Office and within the limits of their jurisdiction, any necessary enquiries or other legal measures.

Article 132

Exchange of publications

(1) The European Patent Office and the central industrial property offices of the Contracting States shall despatch to each other on request and for their own use one or more copies of their respective publications free of charge.

(2) The European Patent Office may conclude agreements relating to the exchange or supply of publications.

Chapter III Representation

Article 133

General principles of representation

(1) Subject to the provisions of paragraph 2, no person shall be compelled to be represented by a professional representative in proceedings established by this Convention.

(2) Natural or legal persons not having either a residence or their principal place of business within the territory of one of the Contracting States must be represented by a professional representative and act through him in all proceedings established by this Convention, other than in filing the European patent application; the Implementing Regulations may permit other exceptions.

(3) Natural or legal persons having their residence or principal place of business within the territory of one of the Contracting States may be represented in proceedings established by this Convention by an employee, who need not be a professional representative but who must be authorised in accordance with the Implementing Regulations. The Implementing Regulations may provide whether and under

(2) Določbe prvega odstavka se uporabljajo za sporočanje informacij na podlagi delovnih sporazumov med Evropskim patentnim uradom in:

(a) osrednjim uradom za industrijsko lastnino države, ki ni članica te konvencije;

(b) vsako medvladno organizacijo, pristojno za podeljevanje patentov;

(c) vsako drugo organizacijo.

(3) Za sporočila po prvem odstavku in pododstavkih (a) in (b) drugega odstavka ne veljajo omejitve iz 128. člena. Upravni svet lahko sklene, da za sporočila po pododstavku (c) drugega odstavka take omejitve ne veljajo, če zadevna organizacija obravnava sporočene informacije kot zaupne, dokler evropska patentna prijava ni objavljena.

131. člen

Upravno in pravno sodelovanje

(1) Evropski patentni urad in sodišča ali drugi organi držav pogodbenic na zahtevo pomagajo drug drugemu s sporočanjem informacij ali omogočanjem vpogleda v dokumentacijo, razen če s to konvencijo ali državnimi zakoni ni drugače določeno. Kadar Evropski patentni urad omogoči vpogled v dokumentacijo sodiščem, državnim tožilstvom ali osrednjim uradom za industrijsko lastnino, za tak vpogled ne veljajo omejitve iz 128. člena.

(2) Po prejemu zaprosila Evropskega patentnega urada za pravno pomoč začnejo sodišča ali drugi pristojni organi držav pogodbenic v imenu tega urada in v okviru svoje pristojnosti potrebne preiskave ali druge sodne postopke.

132. člen

Izmenjava publikacij

(1) Evropski patentni urad in osrednji uradi za industrijsko lastnino držav pogodbenic na zahtevo pošiljajo drug drugemu za svoje potrebe brezplačno enega ali več izvodov svojih publikacij.

(2) Evropski patentni urad lahko sklene sporazume o izmenjavi ali pošiljanju publikacij.

III. poglavje Zastopanje

133. člen

Splošna načela o zastopanju

(1) Ob upoštevanju določb drugega odstavka ni nihče obvezan, da ga v postopkih, določenih s to konvencijo, zastopa registrirani zastopnik.

(2) Fizične ali pravne osebe, ki nimajo niti stalnega prebivališča niti sedeža podjetja na ozemlju ene od držav pogodbenic, morajo imeti registriranega zastopnika in po njem opravljati dejanja v vseh postopkih, določenih s to konvencijo, razen pri vložitvi evropske patentne prijave; pravilnik o izvajanju lahko dopusti tudi druge izjeme.

(3) Fizične ali pravne osebe, ki imajo stalno prebivališče ali sedež podjetja na ozemlju ene od držav pogodbenic, lahko v postopkih, določenih s to konvencijo, zastopa njihov uslužbenec, ki ni nujno registrirani zastopnik, mora pa biti pooblaščen v skladu s pravilnikom o izvajanju. V pravilniku o izvajanju je lahko določeno, ali in pod katerimi pogoji lahko uslužbenec take pravne osebe zastopa tudi druge pravne

what conditions an employee of such a legal person may also represent other legal persons which have their principal place of business within the territory of one of the Contracting States and which have economic connections with the first legal person.

(4) The Implementing Regulations may prescribe special provisions concerning the common representation of parties acting in common.

Article 134

Professional representatives

(1) Professional representation of natural or legal persons in proceedings established by this Convention may only be undertaken by professional representatives whose names appear on a list maintained for this purpose by the European Patent Office.

(2) Any natural person who fulfils the following conditions may be entered on the list of professional representatives:

(a) he must be a national of one of the Contracting States;

(b) he must have his place of business or employment within the territory of one of the Contracting States;

(c) he must have passed the European qualifying examination.

(3) Entry shall be effected upon request, accompanied by certificates which must indicate that the conditions laid down in paragraph 2 are fulfilled.

(4) Persons whose names appear on the list of professional representatives shall be entitled to act in all proceedings established by this Convention.

(5) For the purpose of acting as a professional representative, any person whose name appears on the list referred to in paragraph 1 shall be entitled to establish a place of business in any Contracting State in which proceedings established by this Convention may be conducted, having regard to the Protocol on Centralisation annexed to this Convention. The authorities of such State may remove that entitlement in individual cases only in application of legal provisions adopted for the purpose of protecting public security and law and order. Before such action is taken, the President of the European Patent Office shall be consulted.

(6) The President of the European Patent Office may, in special circumstances, grant exemption from the requirement of paragraph 2(a).

(7) Professional representation in proceedings established by this Convention may also be undertaken, in the same way as by a professional representative, by any legal practitioner qualified in one of the Contracting States and having his place of business within such State, to the extent that he is entitled, within the said State, to act as a professional representative in patent matters. Paragraph 5 shall apply *mutatis mutandis*.

(8) The Administrative Council may adopt provisions governing:

(a) the qualifications and training required of a person for admission to the European qualifying examination and the conduct of such examination;

(b) the establishment or recognition of an institute constituted by the persons entitled to act as professional representatives by virtue of either the European qualifying examination or the provisions of Article 163, paragraph 7;

(c) any disciplinary power to be exercised by that institute or the European Patent Office on such persons.

osebe, ki imajo sedež podjetja na ozemlju ene od držav pogodbenic in gospodarske stike s prvo pravno osebo.

(4) Pravilnik o izvajanju lahko predpiše posebne določbe o skupnem zastopanju strank, ki skupno delujejo.

134. člen

Registrirani zastopniki

(1) V postopkih, določenih s to konvencijo, lahko fizične ali pravne osebe zastopajo samo registrirani zastopniki, vpisani v seznam, ki ga v ta namen vodi Evropski patentni urad.

(2) V seznam registriranih zastopnikov je lahko vpisana vsaka fizična oseba, ki:

(a) je državljan ene od držav pogodbenic;

(b) ima sedež dejavnosti ali zaposlitev na ozemlju ene od držav pogodbenic;

(c) je opravila evropski strokovni izpit.

(3) Vpis se opravi na podlagi zahteve, ki so ji priložena potrdila, da so izpolnjeni vsi pogoji iz drugega odstavka.

(4) Osebe, ki so vpisane v seznam registriranih zastopnikov, imajo pravico delovati v vseh postopkih, določenih s to konvencijo.

(5) Vsakdo, ki je vpisan v seznam iz prvega odstavka, ima zato, da bi lahko deloval kot registrirani zastopnik, pravico ustanoviti sedež dejavnosti v vsaki državi pogodbenici, v kateri se vodijo postopki, določeni s to konvencijo, ob upoštevanju protokola o centralizaciji, ki je priloga k tej konvenciji. Organi take države smejo v posameznih primerih preklicati to pravico le z uporabo pravnih določb, sprejetih zaradi zavarovanja javne varnosti, zakona in reda. Preden se sprejme tak ukrep, se je treba posvetovati s predsednikom Evropskega patentnega urada.

(6) Predsednik Evropskega patentnega urada sme v posebnih okoliščinah dovoliti spregled zahteve iz pododstavka (a) drugega odstavka.

(7) Zastopanje v postopkih, določenih s to konvencijo, lahko tako kot registrirani zastopnik opravlja vsak odvetnik, ki je v državi pogodbenici za to usposobljen in ima v njej sedež dejavnosti, če ima v tej državi pravico delovati kot registrirani zastopnik v patentnih zadevah. Peti odstavek se uporablja smiselno.

(8) Upravni svet lahko sprejme določbe, ki urejajo:

(a) usposobljenost in izobrazbo, ki se zahtevata za pristopitev k evropskemu strokovnemu izpitu, in postopek opravljanja tega izpita;

(b) ustanovitev ali priznanje združenja, ki ga sestavljajo osebe, ki imajo pravico delovati kot registrirani zastopniki bodisi na podlagi opravljenega evropskega strokovnega izpita ali po določbah sedmega odstavka 163. člena;

(c) disciplinsko pristojnost tega združenja ali Evropskega patentnega urada nad temi osebami.

PART VIII
IMPACT ON NATIONAL LAW

Chapter I
**Conversion into a national
patent application**

Article 135

Request for the application of national procedure

(1) The central industrial property office of a designated Contracting State shall apply the procedure for the grant of a national patent only at the request of the applicant for or proprietor of a European patent, and in the following circumstances:

(a) when the European patent application is deemed to be withdrawn pursuant to Article 77, paragraph 5, or Article 162, paragraph 4;

(b) in such other cases as are provided for by the national law in which the European patent application is refused or withdrawn or deemed to be withdrawn, or the European patent is revoked under this Convention.

(2) The request for conversion shall be filed within three months after the European patent application has been withdrawn or after notification has been made that the application is deemed to be withdrawn, or after a decision has been notified refusing the application or revoking the European patent. The effect referred to in Article 66 shall lapse if the request is not filed in due time.

Article 136

Submission and transmission of the request

(1) A request for conversion shall be filed with the European Patent Office and shall specify the Contracting States in which application of the procedure for the grant of a national patent is desired. The request shall not be deemed to be filed until the conversion fee has been paid. The European Patent Office shall transmit the request to the central industrial property offices of the Contracting States specified therein, accompanied by a copy of the files relating to the European patent application or the European patent.

(2) However, if the applicant is notified that the European patent application has been deemed to be withdrawn pursuant to Article 77, paragraph 5, the request shall be filed with the central industrial property office with which the application has been filed. That office shall, subject to the provisions of national security, transmit the request, together with a copy of the European patent application, directly to the central industrial property offices of the Contracting States specified by the applicant in the request. The effect referred to in Article 66 shall lapse if such transmission is not made within twenty months after the date of filing or, if a priority has been claimed, after the date of priority.

Article 137

Formal requirements for conversion

(1) A European patent application transmitted in accordance with Article 136 shall not be subjected to formal requirements of national law which are different from or additional to those provided for in this Convention.

(2) Any central industrial property office to which the application is transmitted may require that the applicant shall, within not less than two months:

(a) pay the national application fee;

VIII. DEL
VPLIV NA DOMAČE PRAVO

I. poglavje
**Pretvorba v državno
patentno prijavo**

135. člen

Zahteva za uporabo državnega postopka

(1) Osrednji urad za industrijsko lastnino imenovane države pogodbenice začne postopek za podelitev državnega patenta le na zahtevo prijavitelja ali imetnika evropskega patenta, in sicer v naslednjih okoliščinah:

(a) če se evropska patentna prijava šteje za umaknjeno po petem odstavku 77. člena ali četrtem odstavku 162. člena;

(b) v drugih primerih, predvidenih po domačem pravu, v katerih je na podlagi te konvencije evropska patentna prijava zavrnjena ali umaknjena ali se šteje za umaknjeno ali je evropski patent razveljavljen.

(2) Zahteva za pretvorbo se vložijo v treh mesecih po umiku evropske patentne prijave ali po uradnem obvestilu, da se prijava šteje za umaknjeno, ali po uradnem obvestilu o odločitvi o zavrnitvi prijave ali razveljavitvi evropskega patenta. Določba 66. člena nima več učinka, če zahteva ni vložena pravočasno.

136. člen

Predložitev in pošiljanje zahteve

(1) Zahteva za pretvorbo se vložijo pri Evropskem patentnem uradu; v njej morajo biti navedene države pogodbenice, v katerih se želi začeti postopek za podelitev državnega patenta. Zahteva se šteje za vloženo, ko je plačana pristojbina za pretvorbo. Evropski patentni urad pošlje zahtevo osrednjim uradom za industrijsko lastnino držav pogodbenic, ki so v zahtevi navedene, skupaj s kopijo dokumentacije v zvezi z evropsko patentno prijavo ali z evropskim patentom.

(2) Če je bil prijavitelj uradno obveščen, da se evropska patentna prijava šteje za umaknjeno po petem odstavku 77. člena, se zahteva vložijo pri osrednjem uradu za industrijsko lastnino, pri katerem je bila prijava vložena. Ob upoštevanju določb, ki se nanašajo na državno varnost, ta urad pošlje zahtevo skupaj s kopijo evropske patentne prijave neposredno osrednjim uradom držav pogodbenic, ki jih je prijavitelj navedel v zahtevi. Določba 66. člena nima več učinka, če se tak prenos ne opravi v dvajsetih mesecih od datuma vložitve ali od prednostnega datuma, če se zahteva prednost.

137. člen

Formalne zahteve za pretvorbo

(1) Za evropsko patentno prijavo, ki je bila prenesena v skladu s 136. členom, ne veljajo formalne zahteve domačega prava, različne od tistih, ki so predvidene s to konvencijo, ali njim dodane.

(2) Osrednji urad za industrijsko lastnino, ki mu je bila poslana prijava, lahko zahteva, da prijavitelj v roku, ki ni krajši od dveh mesecev:

(a) plača državno pristojbino za prijavo;

(b) file a translation in one of the official languages of the State in question of the original text of the European patent application and, where appropriate, of the text, as amended during proceedings before the European Patent Office, which the applicant wishes to submit to the national procedure.

Chapter II Revocation and prior rights

Article 138

Grounds for revocation

(1) Subject to the provisions of Article 139, a European patent may only be revoked under the law of a Contracting State, with effect for its territory, on the following grounds:

(a) if the subject-matter of the European patent is not patentable within the terms of Articles 52 to 57;

(b) if the European patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;

(c) if the subject-matter of the European patent extends beyond the content of the application as filed or, if the patent was granted on a divisional application or on a new application filed in accordance with Article 61, beyond the content of the earlier application as filed;

(d) if the protection conferred by the European patent has been extended;

(e) if the proprietor of the European patent is not entitled under Article 60, paragraph 1.

(2) If the grounds for revocation only affect the European patent in part, revocation shall be pronounced in the form of a corresponding limitation of the said patent. If the national law so allows, the limitation may be effected in the form of an amendment to the claims, the description or the drawings.

Article 139

Rights of earlier date or the same date

(1) In any designated Contracting State a European patent application and a European patent shall have with regard to a national patent application and a national patent the same prior right effect as a national patent application and a national patent.

(2) A national patent application and a national patent in a Contracting State shall have with regard to a European patent in which that Contracting State is designated the same prior right effect as they have with regard to a national patent.

(3) Any Contracting State may prescribe whether and on what terms an invention disclosed in both a European patent application or patent and a national application or patent having the same date of filing or, where priority is claimed, the same date of priority, may be protected simultaneously by both applications or patents.

Chapter III Miscellaneous effects

Article 140

National utility models and utility certificates

Article 66, Article 124, Articles 135 to 137 and Article 139 shall apply to utility models and utility certificates and to applications for utility models and utility certificates registered or deposited in the Contracting States whose laws make provision for such models or certificates.

(b) vloží v enem od uradnih jezikov zadevne države prevod izvirnega besedila evropske patentne prijave, in kadar je primerno, prevod besedila, kot je bilo spremenjeno v postopku pri Evropskem patentnem uradu in ki ga prijavitelj želi predložiti za državni postopek.

II. poglavje Razveljavitev in prejšnje pravice

138. člen

Razlogi za razveljavitev

(1) Ob upoštevanju določb 139. člena se lahko evropski patent razveljavi po pravu države pogodbenice z učinkom na njenem ozemlju le iz naslednjih razlogov:

(a) če predmeta evropskega patenta ni mogoče patentirati po pogojih 52. do 57. člena;

(b) če evropski patent ne razkriva izuma dovolj jasno in popolno, da bi ga lahko strokovnjak izvedel;

(c) če predmet evropskega patenta presega vsebino prijave, kot je bila vložena, ali vsebino prvotne prijave, kot je bila vložena, če je bil patent podeljen na podlagi izločene prijave ali nove prijave, vložene v skladu z 61. členom;

(d) če je bil obseg varstva, ki ga daje evropski patent, razširjen;

(e) če imetnik evropskega patenta nima pravice po prvem odstavku 60. člena.

(2) Če razlogi za razveljavitev vplivajo le na del evropskega patenta, se razveljavitev razglasi v obliki ustrezne omejitve tega patenta. Če domače pravo dovoljuje, se omejitev izvede v obliki spremembe patentnih zahtevkov, opisa ali skic.

139. člen

Prejšnje pravice in pravice, ki so nastale istega dne

(1) V vsaki imenovani državi pogodbenici imata evropska patentna prijava in evropski patent v odnosu do državne patentne prijave in državnega patenta glede prejšnjih pravic enak učinek kot državna patentna prijava in državni patent.

(2) Državna patentna prijava in državni patent države pogodbenice imata v odnosu do evropskega patenta, v katerem je ta država pogodbenica imenovana, glede prejšnjih pravic enak učinek, kot ga imata glede državnega patenta.

(3) Vsaka država pogodbenica lahko predpiše, ali in pod kakšnimi pogoji je mogoče izum, razkrit v evropski patentni prijavi ali v evropskem patentu in v državni prijavi ali državnem patentu z istim datumom vložitve ali istim prednostnim datumom, če se zahteva prednost, istočasno zavaroovati z obema prijavama ali patentoma.

III. poglavje Drugi učinki

140. člen

Državni uporabni modeli in spričevala o koristnosti

Za uporabne modele in spričevala o koristnosti ter za prijave za uporabne modele in spričevala o koristnosti, ki so bile registrirane ali deponirane v državah pogodbenicah, katerih zakonodaja predvideva take modele ali spričevala, se uporabljajo 66., 124., 135. do 137. in 139. člen.

Article 141

Renewal fees for European patents

(1) Renewal fees in respect of a European patent may only be imposed for the years which follow that referred to in Article 86, paragraph 4.

(2) Any renewal fees falling due within two months after the publication of the mention of the grant of the European patent shall be deemed to have been validly paid if they are paid within that period. Any additional fee provided for under national law shall not be charged.

PART IX
SPECIAL AGREEMENTS*Article 142*

Unitary patents

(1) Any group of Contracting States, which has provided by a special agreement that a European patent granted for those States has a unitary character throughout their territories, may provide that a European patent may only be granted jointly in respect of all those States.

(2) Where any group of Contracting States has availed itself of the authorisation given in paragraph 1, the provisions of this Part shall apply.

*Article 143*Special departments of the
European Patent Office

(1) The group of Contracting States may give additional tasks to the European Patent Office.

(2) Special departments common to the Contracting States in the group may be set up within the European Patent Office in order to carry out the additional tasks. The President of the European Patent Office shall direct such special departments; Article 10, paragraphs 2 and 3, shall apply *mutatis mutandis*.

Article 144

Representation before special departments

The group of Contracting States may lay down special provisions to govern representation of parties before the departments referred to in Article 143, paragraph 2.

Article 145

Select committee of the Administrative Council

(1) The group of Contracting States may set up a select committee of the Administrative Council for the purpose of supervising the activities of the special departments set up under Article 143, paragraph 2; the European Patent Office shall place at its disposal such staff, premises and equipment as may be necessary for the performance of its duties. The President of the European Patent Office shall be responsible for the activities of the special departments to the select committee of the Administrative Council.

(2) The composition, powers and functions of the select committee shall be determined by the group of Contracting States.

*141. člen*Pristojbine za podaljšanje veljavnosti
evropskih patentov

(1) Pristojbine za podaljšanje veljavnosti evropskega patenta se lahko naložijo le za leta, ki sledijo letu iz četrtega odstavka 86. člena.

(2) Pristojbine za podaljšanje veljavnosti, ki zapadejo v plačilo v dveh mesecih po objavi omembe o podelitvi evropskega patenta, se štejejo za veljavno plačane, če so bile plačane v tem času. Dodatna pristojbina, predvidena po domačem pravu, se ne zaračunava.

IX. DEL
POSEBNI SPORAZUMI*142. člen*

Enotni patenti

(1) Skupina držav pogodbenic, ki je v posebnem sporazumu določila, da je evropski patent, podeljen za te države, enoten na vseh njihovih ozemljih, lahko določi, da je evropski patent lahko podeljen le skupno za vse te države.

(2) Določbe tega dela se uporabljajo, kadar skupina držav pogodbenic izkoristi možnost iz prvega odstavka.

143. člen

Posebni oddelki Evropskega patentnega urada

(1) Skupina držav pogodbenic lahko da Evropskemu patentnemu uradu dodatne naloge.

(2) Za izvrševanje dodatnih nalog se lahko v Evropskem patentnem uradu ustanovijo posebni skupni oddelki držav pogodbenic v tej skupini. Predsednik Evropskega patentnega urada vodi te posebne oddelke; drugi in tretji odstavek 10. člena se uporabljata smiselno.

144. člen

Zastopanje pri posebnih oddelkih

(1) Skupina držav pogodbenic lahko predvidi posebne določbe v zvezi z zastopanjem strank pri oddelkih iz drugega odstavka 143. člena.

145. člen

Ožji odbor upravnega sveta

(1) Skupina držav pogodbenic lahko ustanovi ožji odbor upravnega sveta za nadzor dejavnosti posebnih oddelkov, ustanovljenih po drugem odstavku 143. člena. Evropski patentni urad mu da na razpolago osebje, prostore in opremo, ki so potrebni za opravljanje njegovih nalog. Predsednik Evropskega patentnega urada je za delo posebnih oddelkov odgovoren ožjemu odboru upravnega sveta.

(2) Sestavo, pristojnost in naloge ožjega odbora določi skupina držav pogodbenic.

Article 146

Cover for expenditure for carrying out special tasks

Where additional tasks have been given to the European Patent Office under Article 143, the group of Contracting States shall bear the expenses incurred by the Organisation in carrying out these tasks. Where special departments have been set up in the European Patent Office to carry out these additional tasks, the group shall bear the expenditure on staff, premises and equipment chargeable in respect of these departments. Article 39, paragraphs 3 and 4, Article 41 and Article 47 shall apply *mutatis mutandis*.

Article 147

Payments in respect of renewal fees for unitary patents

If the group of Contracting States has fixed a common scale of renewal fees in respect of European patents the proportion referred to in Article 39, paragraph 1, shall be calculated on the basis of the common scale; the minimum amount referred to in Article 39, paragraph 1, shall apply to the unitary patent. Article 39, paragraphs 3 and 4, shall apply *mutatis mutandis*.

Article 148

The European patent application as an object of property

(1) Article 74 shall apply unless the group of Contracting States has specified otherwise.

(2) The group of Contracting States may provide that a European patent application for which these Contracting States are designated may only be transferred, mortgaged or subjected to any legal means of execution in respect of all the Contracting States of the group and in accordance with the provisions of the special agreement.

Article 149

Joint designation

(1) The group of Contracting States may provide that these States may only be designated jointly, and that the designation of one or some only of such States shall be deemed to constitute the designation of all the States of the group.

(2) Where the European Patent Office acts as a designated Office under Article 153, paragraph 1, paragraph 1 shall apply if the applicant has indicated in the international application that he wishes to obtain a European patent for one or more of the designated States of the group. The same shall apply if the applicant designates in the international application one of the Contracting States in the group, whose national law provides that the designation of that State shall have the effect of the application being for a European patent.

PART X**INTERNATIONAL APPLICATION PURSUANT TO THE PATENT COOPERATION TREATY***Article 150*

Application of the Patent Cooperation Treaty

(1) The Patent Cooperation Treaty of 19 June 1970, hereinafter referred to as the Cooperation Treaty, shall be applied in accordance with the provisions of this Part.

146. člen

Pokrivanje izdatkov za posebne naloge

Če so bile Evropskemu patentnemu uradu dane dodatne naloge po 143. členu, nosi stroške, ki jih ima Organizacija z izvrševanjem teh nalog, skupina držav pogodbenic. Če so bili v Evropskem patentnem uradu za izvrševanje teh dodatnih nalog ustanovljeni posebni oddelki, nosi skupina stroške za osebje, prostore in opremo, ki se nanašajo na te oddelke. Tretji in četrti odstavek 39. člena ter 41. in 47. člen se uporabljajo smiselno.

147. člen

Plačila v zvezi s pristojbinami za podaljšanje veljavnosti enotnih patentov

Če je skupina držav pogodbenic določila skupni razdelilnik pristojbin za podaljšanje veljavnosti evropskih patentov, se razmerje, omenjeno v prvem odstavku 39. člena, izračunava po tem skupnem razdelilniku; najmanjši znesek po prvem odstavku 39. člena velja tudi za enotni patent. Tretji in četrti odstavek 39. člena se uporabljata smiselno.

148. člen

Evropska patentna prijava kot predmet lastnine

(1) Uporablja se 74. člen, razen če skupina držav pogodbenic ni določila drugače.

(2) Skupina držav pogodbenic sme predpisati, da je evropska patentna prijava, v kateri so te države pogodbenice imenovane, lahko predmet prenosa pravic, zastave ali izvršbe le za vse države pogodbenice v skupini in v skladu z določbami posebnega sporazuma.

149. člen

Skupno imenovanje

(1) Skupina držav pogodbenic lahko predpiše, da smejo biti te države imenovane le skupno in da se imenovanje ene ali le nekaterih od teh držav šteje za imenovanje vseh držav v skupini.

(2) Kadar Evropski patentni urad deluje kot imenovani urad po prvem odstavku 153. člena, se ta odstavek uporablja, če je prijavitelj v mednarodni prijavi navedel, da želi dobiti evropski patent za eno ali več imenovanih držav te skupine. Ista določba se uporablja, če prijavitelj v mednarodni prijavi imenuje eno državo pogodbenico iz skupine, katere domače pravo določa, da ima imenovanje te države učinek evropske patentne prijave.

X. DEL**MEDNARODNA PRIJAVA PO POGODBI O SODELOVANJU NA PODROČJU PATENTOV***150. člen*

Uporaba Pogodbe o sodelovanju na področju patentov

(1) Pogodba o sodelovanju na področju patentov z dne 19. junija 1970, v nadaljevanju imenovana Pogodba o sodelovanju, se uporablja v skladu z določbami tega dela.

(2) International applications filed under the Cooperation Treaty may be the subject of proceedings before the European Patent Office. In such proceedings, the provisions of that Treaty shall be applied, supplemented by the provisions of this Convention. In case of conflict, the provisions of the Cooperation Treaty shall prevail. In particular, for an international application the time limit within which a request for examination must be filed under Article 94, paragraph 2, of this Convention shall not expire before the time prescribed by Article 22 or Article 39 of the Cooperation Treaty as the case may be.

(3) An international application, for which the European Patent Office acts as designated Office or elected Office, shall be deemed to be a European patent application.

(4) Where reference is made in this Convention to the Cooperation Treaty, such reference shall include the Regulations under that Treaty.

Article 151

The European Patent Office as a receiving Office

(1) The European Patent Office may act as a receiving Office within the meaning of Article 2(xv) of the Cooperation Treaty if the applicant is a resident or national of a Contracting State to this Convention in respect of which the Cooperation Treaty has entered into force.

(2) The European Patent Office may also act as a receiving Office if the applicant is a resident or national of a State which is not a Contracting State to this Convention, but which is a Contracting State to the Cooperation Treaty and which has concluded an agreement with the Organisation whereby the European Patent Office acts as a receiving Office, in accordance with the provisions of the Cooperation Treaty, in place of the national office of that State.

(3) Subject to the prior approval of the Administrative Council, the European Patent Office may also act as a receiving Office for any other applicant, in accordance with an agreement concluded between the Organisation and the International Bureau of the World Intellectual Property Organization.

Article 152

Filing and transmittal of the international application

(1) If the applicant chooses the European Patent Office as a receiving Office for his international application, he shall file it directly with the European Patent Office. Article 75, paragraph 2, shall nevertheless apply *mutatis mutandis*.

(2) In the event of an international application being filed with the European Patent Office through the intermediary of the competent central industrial property office, the Contracting State concerned shall take all necessary measures to ensure that the application is transmitted to the European Patent Office in time for the latter to be able to comply in due time with the conditions for transmittal under the Cooperation Treaty.

(3) Each international application shall be subject to the payment of the transmittal fee, which shall be payable within one month after receipt of the application.

(2) Mednarodne prijave, vložene po Pogodbi o sodelovanju, so lahko predmet postopka pri Evropskem patentnem uradu. V takih postopkih se uporabljajo določbe te pogodbe, dopolnjene z določbami te konvencije. Ob neskladju prevladajo določbe Pogodbe o sodelovanju. Zlasti velja to za rok, v katerem je treba vložiti zahtevo za preizkus mednarodne prijave po drugem odstavku 94. člena te konvencije, ki ne sme poteči pred rokom, predpisanim z 22. ali 39. členom Pogodbe o sodelovanju, odvisno od primera.

(3) Mednarodna prijava, za katero je Evropski patentni urad imenovani urad ali izbrani urad, se šteje za evropsko patentno prijavo.

(4) Kadar se ta konvencija sklicuje na Pogodbo o sodelovanju, se sklicevanje nanaša tudi na pravilnik po tej pogodbi.

151. člen

Evropski patentni urad kot prejemni urad

(1) Evropski patentni urad je lahko prejemni urad po točki (xv) 2. člena Pogodbe o sodelovanju, če ima prijavitelj v državi pogodbenici te konvencije, za katero je Pogodba o sodelovanju začela veljati, v njej stalno prebivališče ali je njen državljan.

(2) Evropski patentni urad je lahko prejemni urad tudi, če ima prijavitelj stalno prebivališče v kateri od držav ali je državljan katere od držav, ki ni država pogodbenica te konvencije, je pa država pogodbenica Pogodbe o sodelovanju in je z Organizacijo sklenila sporazum, po katerem Evropski patentni urad deluje kot prejemni urad namesto državnega urada te države v skladu z določbami Pogodbe o sodelovanju.

(3) Ob poprejšnji odobritvi upravnega sveta je lahko Evropski patentni urad prejemni urad tudi za vsakega drugega prijavitelja v skladu s sporazumom, sklenjenim med Organizacijo in Mednarodnim uradom Svetovne organizacije za intelektualno lastnino.

152. člen

Vložitev in pošiljanje mednarodne prijave

(1) Če prijavitelj izbere Evropski patentni urad kot prejemni urad za svojo mednarodno prijavo, jo mora vložiti neposredno pri Evropskem patentnem uradu. Drugi odstavek 75. člena se uporablja smiselno.

(2) Če je mednarodna prijava vložena pri Evropskem patentnem uradu s posredovanjem pristojnega osrednjega urada za industrijsko lastnino, storijo zadevne države pogodbenice vse potrebno, da je prijava poslana Evropskemu patentnemu uradu pravočasno, da bi ta lahko v predpisanim času izpolnil vse pogoje glede pošiljanja po Pogodbi o sodelovanju.

(3) Za vsako mednarodno prijavo je treba plačati pristojbino za pošiljanje, in sicer v enem mesecu po prejemu prijave.

Article 153

The European Patent Office as a designated Office

(1) The European Patent Office shall act as a designated Office within the meaning of Article 2(xiii) of the Cooperation Treaty for those Contracting States to this Convention in respect of which the Cooperation Treaty has entered into force and which are designated in the international application if the applicant informs the receiving Office in the international application that he wishes to obtain a European patent for these States. The same shall apply if, in the international application, the applicant designates a Contracting State of which the national law provides that designation of that State shall have the effect of the application being for a European patent.

(2) When the European Patent Office acts as a designated Office, the Examining Division shall be competent to take decisions which are required under Article 25, paragraph 2(a), of the Cooperation Treaty.

Article 154

The European Patent Office as an International Searching Authority

(1) The European Patent Office shall act as an International Searching Authority within the meaning of Chapter I of the Cooperation Treaty for applicants who are residents or nationals of a Contracting State in respect of which the Cooperation Treaty has entered into force, subject to the conclusion of an agreement between the Organisation and the International Bureau of the World Intellectual Property Organization.

(2) Subject to the prior approval of the Administrative Council, the European Patent Office shall also act as an International Searching Authority for any other applicant, in accordance with an agreement concluded between the Organisation and the International Bureau of the World Intellectual Property Organization.

(3) The Boards of Appeal shall be responsible for deciding on a protest made by an applicant against an additional fee charged by the European Patent Office under the provisions of Article 17, paragraph 3(a), of the Cooperation Treaty.

Article 155

The European Patent Office as an International Preliminary Examining Authority

(1) The European Patent Office shall act as an International Preliminary Examining Authority within the meaning of Chapter II of the Cooperation Treaty for applicants who are residents or nationals of a Contracting State bound by that Chapter, subject to the conclusion of an agreement between the Organisation and the International Bureau of the World Intellectual Property Organization.

(2) Subject to the prior approval of the Administrative Council, the European Patent Office shall also act as an International Preliminary Examining Authority for any other applicant, in accordance with an agreement concluded between the Organisation and the International Bureau of the World Intellectual Property Organization.

(3) The Boards of Appeal shall be responsible for deciding on a protest made by an applicant against an additional fee charged by the European Patent Office under the provisions of Article 34, paragraph 3(a), of the Cooperation Treaty.

153. člen

Evropski patentni urad kot imenovani urad

(1) Po točki (xiii) 2. člena Pogodbe o sodelovanju je Evropski patentni urad imenovani urad za tiste države pogodbenice te konvencije, za katere je Pogodba o sodelovanju začela veljati in ki so imenovane v mednarodni prijavi, če prijavitelj v tej prijavi obvesti prejemni urad, da želi pridobiti evropski patent za te države. Ista določba se uporablja, če prijavitelj v mednarodni prijavi imenuje državo pogodbenico, katere domače pravo določa, da ima imenovanje te države učinek evropske patentne prijave.

(2) Kadar je Evropski patentni urad imenovani urad, je oddelek za preizkuse pristojen za odločitve, ki se zahtevajo po pododstavku (a) drugega odstavka 25. člena Pogodbe o sodelovanju.

154. člen

Evropski patentni urad kot organ za mednarodno poizvedbo

(1) Evropski patentni urad je organ za mednarodno poizvedbo po I. poglavju Pogodbe o sodelovanju za prijavitelje, ki imajo stalno prebivališče v državi pogodbenici, za katero je Pogodba o sodelovanju začela veljati, ali so njeni državljani, če je bil sklenjen sporazum med Organizacijo in Mednarodnim uradom Svetovne organizacije za intelektualno lastnino.

(2) Ob poprejšnji odobritvi upravnega sveta je Evropski patentni urad organ za mednarodno poizvedbo tudi za druge prijavitelje v skladu s sporazumom, sklenjenim med Organizacijo in Mednarodnim uradom Svetovne organizacije za intelektualno lastnino.

(3) Pritožbeni senati so pristojni za odločanje, kadar prijavitelj ugovarja zoper dodatno pristojbino, ki jo Evropski patentni urad zaračuna na podlagi pododstavka (a) tretjega odstavka 17. člena Pogodbe o sodelovanju.

155. člen

Evropski patentni urad kot organ za mednarodni predhodni preizkus

(1) Evropski patentni urad je organ za mednarodni predhodni preizkus po II. poglavju Pogodbe o sodelovanju za prijavitelje, ki imajo stalno prebivališče v državi pogodbenici, ki jo zavezuje to poglavje, ali so njeni državljani, če je bil sklenjen sporazum med Organizacijo in Mednarodnim uradom Svetovne organizacije za intelektualno lastnino.

(2) Ob poprejšnji odobritvi upravnega sveta je Evropski patentni urad organ za mednarodni predhodni preizkus tudi za vsakega drugega prijavitelja v skladu s sporazumom, sklenjenim med Organizacijo in Mednarodnim uradom Svetovne organizacije za intelektualno lastnino.

(3) Pritožbeni senati so pristojni za odločanje, kadar prijavitelj ugovarja zoper dodatno pristojbino, ki jo Evropski patentni urad zaračuna na podlagi pododstavka (a) tretjega odstavka 34. člena Pogodbe o sodelovanju.

Article 156

The European Patent Office as an elected Office

The European Patent Office shall act as an elected Office within the meaning of Article 2(xiv) of the Cooperation Treaty if the applicant has elected any of the designated States referred to in Article 153, paragraph 1, or Article 149, paragraph 2, for which Chapter II of that Treaty has become binding. Subject to the prior approval of the Administrative Council, the same shall apply where the applicant is a resident or national of a State which is not a party to that Treaty or which is not bound by Chapter II of that Treaty, provided that he is one of the persons whom the Assembly of the International Patent Cooperation Union has decided to allow, pursuant to Article 31, paragraph 2(b), of the Cooperation Treaty, to make a demand for international preliminary examination.

Article 157

International search report

(1) Without prejudice to the provisions of paragraphs 2 to 4, the international search report under Article 18 of the Cooperation Treaty or any declaration under Article 17, paragraph 2(a), of that Treaty and their publication under Article 21 of that Treaty shall take the place of the European search report and the mention of its publication in the European Patent Bulletin.

(2) Subject to the decisions of the Administrative Council referred to in paragraph 3:

(a) a supplementary European search report shall be drawn up in respect of all international applications;

(b) the applicant shall pay the search fee, which shall be paid at the same time as the national fee provided for in Article 22, paragraph 1, or Article 39, paragraph 1, of the Cooperation Treaty. If the search fee is not paid in due time the application shall be deemed to be withdrawn.

(3) The Administrative Council may decide under what conditions and to what extent:

(a) the supplementary European search report is to be dispensed with;

(b) the search fee is to be reduced.

(4) The Administrative Council may at any time rescind the decisions taken pursuant to paragraph 3.

Article 158

Publication of the international application and its supply to the European Patent Office

(1) Publication under Article 21 of the Cooperation Treaty of an international application for which the European Patent Office is a designated Office shall, subject to paragraph 3, take the place of the publication of a European patent application and shall be mentioned in the European Patent Bulletin. Such an application shall not however be considered as comprised in the state of the art in accordance with Article 54, paragraph 3, if the conditions laid down in paragraph 2 are not fulfilled.

(2) The international application shall be supplied to the European Patent Office in one of its official languages. The applicant shall pay to the European Patent Office the national fee provided for in Article 22, paragraph 1, or Article 39, paragraph 1, of the Cooperation Treaty.

(3) If the international application is published in a language other than one of the official languages of the European Patent Office, that Office shall publish the international application, supplied as specified in paragraph 2. Subject to the provisions of Article 67, paragraph 3, the provisional protection in accordance with Article 67, paragraphs 1 and 2, shall be effective from the date of that publication.

156. člen

Evropski patentni urad kot izbrani urad

Evropski patentni urad je izbrani urad po točki (xiv) 2. člena Pogodbe o sodelovanju, če je prijavitelj izbral katero od imenovanih držav, omenjenih v prvem odstavku 153. člena ali v drugem odstavku 149. člena, za katero je II. poglavje te pogodbe postalo zavezujoče. Ob poprejšnji odobritvi upravnega sveta se ista določba uporablja tudi, če ima prijavitelj v državi, ki ni pogodbenica te pogodbe ali je II. poglavje te pogodbe ne zavezuje, stalno prebivališče ali je njen državljan, pod pogojem da je ena od oseb, ki jim je skupščina Unije za mednarodno sodelovanje na področju patentov na podlagi pododstavka (b) drugega odstavka 31. člena Pogodbe o sodelovanju dovolila zahtevati mednarodni predhodni preizkus.

157. člen

Poročilo o mednarodni poizvedbi

(1) Poročilo o mednarodni poizvedbi po 18. členu Pogodbe o sodelovanju ali vsaka izjava po pododstavku (a) drugega odstavka 17. člena te pogodbe in njuna objava po 21. členu te pogodbe nadomestita evropsko poročilo o poizvedbi in omemo njegove objave v Evropskem patentnem biltenu, kar pa ne vpliva na določbe drugega do četrtega odstavka tega člena.

(2) Ob upoštevanju odločitev upravnega sveta iz tretjega odstavka:

(a) se sestavi dopolnilno evropsko poročilo o poizvedbi za vse mednarodne prijave;

(b) prijavitelj plača pristojbino za poizvedbo, ki se plača hkrati z državno pristojbino, predvideno v prvem odstavku 22. člena ali v prvem odstavku 39. člena Pogodbe o sodelovanju. Če pristojbina za poizvedbo ni pravočasno plačana, se šteje prijava za umaknjeno.

(3) Upravni svet lahko odloči, pod katerimi pogoji in v kolikšnem obsegu:

(a) se je mogoče odpovedati dopolnilnemu evropskemu poročilu o poizvedbi;

(b) se zmanjša pristojbina za poizvedbo.

(4) Upravni svet lahko kadar koli razveljavi odločitve, sprejete na podlagi tretjega odstavka.

158. člen

Objava mednarodne prijave in predložitev Evropskemu patentnemu uradu

(1) Objava mednarodne prijave po 21. členu Pogodbe o sodelovanju, za katero je Evropski patentni urad imenovani urad, nadomesti ob upoštevanju tretjega odstavka objavo evropske patentne prijave in se omeni v Evropskem patentnem biltenu. Vendar taka prijava ne velja za obseženo s stanjem tehnike v skladu s tretjim odstavkom 54. člena, če niso izpolnjeni pogoji iz drugega odstavka.

(2) Mednarodno prijavo je treba predložiti Evropskemu patentnemu uradu v enem od njegovih uradnih jezikov. Prijavitelj mora plačati Evropskemu patentnemu uradu državno pristojbino, predvideno v prvem odstavku 22. člena ali prvem odstavku 39. člena Pogodbe o sodelovanju.

(3) Če je mednarodna prijava objavljena v jeziku, ki ni eden od uradnih jezikov Evropskega patentnega urada, ta mednarodno prijavo, ki mu je bila predložena, kot določa drugi odstavek, objavi. Ob upoštevanju tretjega odstavka 67. člena začne začasno varstvo v skladu s prvim in drugim odstavkom 67. člena veljati šele z datumom te objave.

PART XI
TRANSITIONAL PROVISIONS*Article 159*

Administrative Council during a transitional period

(1) The States referred to in Article 169, paragraph 1, shall appoint their representatives to the Administrative Council; on the invitation of the Government of the Federal Republic of Germany, the Administrative Council shall meet no later than two months after the entry into force of this Convention, particularly for the purpose of appointing the President of the European Patent Office.

(2) The duration of the term of office of the first Chairman of the Administrative Council appointed after the entry into force of this Convention shall be four years.

(3) The term of office of two of the elected members of the first Board of the Administrative Council set up after the entry into force of this Convention shall be five and four years respectively.

Article 160

Appointment of employees during a transitional period

(1) Until such time as the Service Regulations for permanent employees and the conditions of employment of other employees of the European Patent Office have been adopted, the Administrative Council and the President of the European Patent Office, each within their respective powers, shall recruit the necessary employees and shall conclude short-term contracts to that effect. The Administrative Council may lay down general principles in respect of recruitment.

(2) During a transitional period, the expiry of which shall be determined by the Administrative Council, the Administrative Council, after consulting the President of the European Patent Office, may appoint as members of the Enlarged Board of Appeal or of the Boards of Appeal technically or legally qualified members of national courts and authorities of Contracting States who may continue their activities in their national courts or authorities. They may be appointed for a term of less than five years, though this shall not be less than one year, and may be reappointed.

Article 161

First accounting period

(1) The first accounting period of the Organisation shall extend from the date of entry into force of this Convention to 31 December of the same year. If that date falls within the second half of the year, the accounting period shall extend until 31 December of the following year.

(2) The budget for the first accounting period shall be drawn up as soon as possible after the entry into force of this Convention. Until contributions provided for in Article 40 due in accordance with the first budget are received by the Organisation, the Contracting States shall, upon the request of and within the limit of the amount fixed by the Administrative Council, make advances which shall be deducted from their contributions in respect of that budget. The advances shall be determined in accordance with the scale referred to in Article 40. Article 39, paragraphs 3 and 4, shall apply mutatis mutandis to the advances.

Article 162

Progressive expansion of the field of activity of the European Patent Office

(1) European patent applications may be filed with the European Patent Office from the date fixed by the Administrative Council on the recommendation of the President of the European Patent Office.

XI. DEL
PREHODNE DOLOČBE*159. člen*

Upravni svet v prehodnem obdobju

(1) Države, omenjene v prvem odstavku 169. člena, imenujejo svoje predstavnike v upravni svet; na povabilo vlade Zvezne republike Nemčije se upravni svet sestane najpozneje v dveh mesecih po začetku veljavnosti te konvencije, še zlasti z namenom, da imenuje predsednika Evropskega patentnega urada.

(2) Mandat prvega predsednika upravnega sveta, imenovanega po začetku veljavnosti te konvencije, traja štiri leta.

(3) Mandat dveh izvoljenih članov prvega odbora upravnega sveta, ustanovljenega po začetku veljavnosti te konvencije, traja pet let oziroma štiri leta.

160. člen

Imenovanje uslužbencev v prehodnem obdobju

(1) Do sprejetja pravil službovanja za stalno zaposlene in pogojev zaposlovanja za druge uslužbence Evropskega patentnega urada zaposlujeta upravni svet in predsednik Evropskega patentnega urada vsak v okviru svoje pristojnosti potrebne uslužbence in sklepata pogodbe za določen čas. Upravni svet lahko določi splošna načela za zaposlovanje.

(2) V prehodnem obdobju, katerega trajanje določi upravni svet, lahko upravni svet po posvetu s predsednikom Evropskega patentnega urada imenuje kot člane razširjenega pritožbenega senata ali pritožbenih senatov tehnično ali pravno usposobljene člane državnih sodišč in organov držav pogodbenic, ki lahko še naprej opravljajo svoje dejavnosti na njihovih državnih sodiščih ali v njihovih državnih organih. Imenovani so lahko za največ pet let in za najmanj eno leto z možnostjo ponovnega imenovanja.

161. člen

Prvo obračunsko obdobje

(1) Prvo obračunsko obdobje Organizacije traja od datuma začetka veljavnosti te konvencije do 31. decembra istega leta. Če je ta datum v drugi polovici leta, se obračunsko obdobje podaljša do 31. decembra naslednjega leta.

(2) Proračun za prvo obračunsko obdobje se sestavi čim prej po začetku veljavnosti te konvencije. Dokler Organizacija ne prejme prispevkov za prvi proračun, kot je predvideno v 40. členu, države pogodbenice vplačujejo na zahtevo upravnega sveta in do višine zneska, ki ga določi, akontacije, ki se odštejejo od njihovih prispevkov v zvezi s tem proračunom. Akontacije se določijo v skladu z razdelilnikom iz 40. člena. Tretji in četrti odstavek 39. člena se smiselno uporabljata za akontacije.

162. člen

Postopno širjenje področja dejavnosti Evropskega patentnega urada

(1) Evropske patentne prijave se lahko vlagajo pri Evropskem patentnem uradu od datuma, ki ga določi upravni svet na priporočilo predsednika Evropskega patentnega urada.

(2) The Administrative Council may, on the recommendation of the President of the European Patent Office, decide that, as from the date referred to in paragraph 1, the processing of European patent applications may be restricted. Such restriction may be in respect of certain areas of technology. However, examination shall in any event be made as to whether European patent applications can be accorded a date of filing.

(3) If a decision has been taken under paragraph 2, the Administrative Council may not subsequently further restrict the processing of European patent applications.

(4) Where, as a result of the procedure being restricted under paragraph 2, a European patent application cannot be further processed, the European Patent Office shall communicate this to the applicant and shall point out that he may make a request for conversion. The European patent application shall be deemed to be withdrawn on receipt of such communication.

Article 163

Professional representatives during a transitional period

(1) During a transitional period, the expiry of which shall be determined by the Administrative Council, notwithstanding the provisions of Article 134, paragraph 2, any natural person who fulfils the following conditions may be entered on the list of professional representatives:

- (a) he must be a national of a Contracting State;
- (b) he must have his place of business or employment within the territory of one of the Contracting States;
- (c) he must be entitled to represent natural or legal persons in patent matters before the central industrial property office of the Contracting State in which he has his place of business or employment.

(2) Entry shall be effected upon request, accompanied by a certificate, furnished by the central industrial property office, which must indicate that the conditions laid down in paragraph 1 are fulfilled.

(3) When, in any Contracting State, the entitlement referred to in paragraph 1(c) is not conditional upon the requirement of special professional qualifications, persons applying to be entered on the list who act in patent matters before the central industrial property office of the said State must have habitually so acted for at least five years. However, persons whose professional qualification to represent natural or legal persons in patent matters before the central industrial property office of one of the Contracting States is officially recognised in accordance with the regulations laid down by such State shall not be subject to the condition of having exercised the profession. The certificate furnished by the central industrial property office must indicate that the applicant satisfies one of the conditions referred to in the present paragraph.

(4) The President of the European Patent Office may grant exemption from:

- (a) the requirement of paragraph 3, first sentence, if the applicant furnishes proof that he has acquired the requisite qualification in another way;
- (b) the requirement of paragraph 1(a) in special circumstances.

(5) The President of the European Patent Office shall grant exemption from the requirement of paragraph 1(a) if on 5 October 1973 the applicant fulfilled the requirements of paragraph 1(b) and (c).

(2) Upravni svet sme na priporočilo predsednika Evropskega patentnega urada odločiti, da je lahko obravnava evropskih patentnih prijav od datuma iz prvega odstavka omejena. Ta omejitev se lahko nanaša na nekatera področja tehnologije. V vsakem primeru pa mora biti opravljen preizkus evropskih patentnih prijav, da bi se ugotovilo, ali se jim lahko dodeli datum vložitve.

(3) Če je bila sprejeta odločitev po drugem odstavku, upravni svet ne sme pozneje bolj omejiti obravnave evropskih patentnih prijav.

(4) Če se evropska patentna prijava ne more naprej obravnavati zaradi omejitve postopka po drugem odstavku, Evropski patentni urad to sporoči prijavitelju in ga opozori, da lahko zahteva pretvorbo. Po prejemu tega sporočila se prijava evropskega patenta šteje za umaknjeno.

163. člen

Registrirani zastopniki v prehodnem obdobju

(1) V prehodnem obdobju, katerega konec določi upravni svet, je lahko v seznam registriranih zastopnikov ne glede na drugi odstavek 134. člena vpisana vsaka fizična oseba, ki izpolnjuje naslednje pogoje:

- (a) ima državljanstvo ene od držav pogodbenic;
- (b) ima sedež dejavnosti ali zaposlitev na ozemlju ene od držav pogodbenic;
- (c) ima pravico zastopati fizične ali pravne osebe v patentnih zadevah pri osrednjem uradu za industrijsko lastnino države pogodbenice, v kateri ima sedež dejavnosti ali zaposlitev.

(2) Vpis se opravi na podlagi zahteve, ki ji je priloženo potrdilo osrednjega urada za industrijsko lastnino z navedbo, da so izpolnjeni pogoji iz prvega odstavka.

(3) Če v državi pogodbenici pravica, omenjena v pododstavku (c) prvega odstavka, ni pogojena s posebno strokovno usposobljenostjo, morajo osebe, ki zahtevajo vpis v seznam in ki delujejo v patentnih zadevah pri osrednjem uradu za industrijsko lastnino te države, tako redno delovati vsaj že pet let. Osebam, katerih strokovna usposobljenost za zastopanje fizičnih ali pravnih oseb v patentnih zadevah pri osrednjem uradu za industrijsko lastnino ene od držav pogodbenic je uradno priznana v skladu s predpisi te države, ni treba izpolnjevati pogoja, ki se nanaša na strokovno delovanje. V potrdilu, ki ga izda osrednji urad za industrijsko lastnino, mora biti navedeno, da vložnik zahteve izpolnjuje enega od pogojev, navedenih v tem odstavku.

(4) Predsednik Evropskega patentnega urada lahko dopusti izjeme:

- (a) glede pogoja iz prvega stavka tretjega odstavka, če vložnik zahteve predloži dokazilo, da si je kako drugače pridobil zahtevano usposobljenost;
- (b) glede pogoja iz pododstavka (a) prvega odstavka v posebnih okoliščinah.

(5) Predsednik Evropskega patentnega urada dopusti izjemo glede pogoja iz pododstavka (a) prvega odstavka, če je vložnik zahteve 5. oktobra 1973 izpolnjeval pogoja iz pododstavkov (b) in (c) prvega odstavka.

(6) Persons having their places of business or employment in a State which acceded to this Convention less than one year before the expiry of the transitional period referred to in paragraph 1 or after the expiry of the transitional period may, under the conditions laid down in paragraphs 1 to 5, during a period of one year calculated from the date of entry into force of the accession of that State, be entered on the list of professional representatives.

(7) After the expiry of the transitional period, any person whose name was entered on the list of professional representatives during that period shall, without prejudice to any disciplinary measures taken under Article 134, paragraph 8(c), remain thereon or, on request, be restored thereto, provided that he then fulfils the requirement of paragraph 1(b).

PART XII FINAL PROVISIONS

Article 164

Implementing Regulations and Protocols

(1) The Implementing Regulations, the Protocol on Recognition, the Protocol on Privileges and Immunities, the Protocol on Centralisation and the Protocol on the Interpretation of Article 69 shall be integral parts of this Convention.

(2) In the case of conflict between the provisions of this Convention and those of the Implementing Regulations, the provisions of this Convention shall prevail.

Article 165

Signature – Ratification

(1) This Convention shall be open for signature until 5 April 1974 by the States which took part in the Inter-Governmental Conference for the setting up of a European System for the Grant of Patents or were informed of the holding of that conference and offered the option of taking part therein.

(2) This Convention shall be subject to ratification; instruments of ratification shall be deposited with the Government of the Federal Republic of Germany.

Article 166

Accession

(1) This Convention shall be open to accession by:

- (a) the States referred to in Article 165, paragraph 1;
- (b) any other European State at the invitation of the

Administrative Council.

(2) Any State which has been a party to the Convention and has ceased so to be as a result of the application of Article 172, paragraph 4, may again become a party to the Convention by acceding to it.

(3) Instruments of accession shall be deposited with the Government of the Federal Republic of Germany.

Article 167

Reservations

(1) Each Contracting State may, at the time of signature or when depositing its instrument of ratification or accession, make only the reservations specified in paragraph 2.

(6) Osebe, ki imajo sedež dejavnosti ali zaposlitev v državi, ki je pristopila k tej konvenciji manj kot eno leto pred potekom prehodnega obdobja iz prvega odstavka ali po njegovem poteku, se lahko pod pogoji iz prvega do petega odstavka v enem letu od datuma, ko je začel veljati pristop te države, vpišejo v seznam registriranih zastopnikov.

(7) Po poteku prehodnega obdobja lahko vsakdo, ki je bil vpisan v seznam registriranih zastopnikov med tem obdobjem, brez vpliva na disciplinske ukrepe, sprejete po pododstavku (c) osmega odstavka 134. člena, ostane v njem ali se na zahtevo ponovno vpiše vanj, če izpolnjuje pogoj iz pododstavka (b) prvega odstavka.

XII. DEL KONČNE DOLOČBE

164. člen

Pravilnik o izvajanju in protokoli

(1) Pravilnik o izvajanju, protokol o priznanju, protokol o privilegijih in imunitetah, protokol o centralizaciji in protokol o razlagi 69. člena so sestavni deli te konvencije.

(2) Ob neskladju med določbami te konvencije in določbami pravilnika o izvajanju prevladajo določbe te konvencije.

165. člen

Podpis – Ratifikacija

(1) Ta konvencija je na voljo za podpis do 5. aprila 1974 za države, ki so sodelovale na medvladni konferenci za ustanovitev evropskega sistema za podeljevanje patentov ali so bile obveščene o tej konferenci in so imele na izbiro, da se je udeležijo.

(2) Konvencijo je treba ratificirati; listine o ratifikaciji se deponirajo pri vladi Zvezne republike Nemčije.

166. člen

Pristop

(1) K tej konvenciji lahko pristopijo:

- (a) države iz prvega odstavka 165. člena;
- (b) vsaka druga evropska država, ki jo povabi upravni svet.

(2) Vsaka država, ki je bila pogodbenica te konvencije in je to prenehala biti na podlagi četrtega odstavka 172. člena, lahko s pristopom znova postane njena pogodbenica.

(3) Listine o pristopu se deponirajo pri vladi Zvezne republike Nemčije.

167. člen

Pridržki

(1) Vsaka država pogodbenica lahko ob podpisu ali deponiranju listine o ratifikaciji ali pristopu da le pridržke, navedene v drugem odstavku.

(2) Each Contracting State may reserve the right to provide that:

(a) European patents, in so far as they confer protection on chemical, pharmaceutical or food products, as such, shall, in accordance with the provisions applicable to national patents, be ineffective or revocable; this reservation shall not affect protection conferred by the patent in so far as it involves a process of manufacture or use of a chemical product or a process of manufacture of a pharmaceutical or food product;

(b) European patents, in so far as they confer protection on agricultural or horticultural processes other than those to which Article 53, sub-paragraph (b), applies, shall, in accordance with the provisions applicable to national patents, be ineffective or revocable;

(c) European patents shall have a term shorter than twenty years, in accordance with the provisions applicable to national patents;

(d) it shall not be bound by the Protocol on Recognition.

(3) Any reservation made by a Contracting State shall have effect for a period of not more than ten years from the entry into force of this Convention. However, where a Contracting State has made any of the reservations referred to in paragraph 2(a) and (b), the Administrative Council may, in respect of such State, extend the period by not more than five years for all or part of any reservation made, if that State submits, at the latest one year before the end of the ten-year period, a reasoned request which satisfies the Administrative Council that the State is not in a position to dispense with that reservation by the expiry of the ten-year period.

(4) Any Contracting State that has made a reservation shall withdraw this reservation as soon as circumstances permit. Such withdrawal shall be made by notification addressed to the Government of the Federal Republic of Germany and shall take effect one month from the date of receipt of such notification.

(5) Any reservation made in accordance with paragraph 2(a), (b) or (c) shall apply to European patents granted on European patent applications filed during the period in which the reservation has effect. The effect of the reservation shall continue for the term of the patent.

(6) Without prejudice to paragraphs 4 and 5, any reservation shall cease to have effect on expiry of the period referred to in paragraph 3, first sentence, or, if the period is extended, on expiry of the extended period.

Article 168

Territorial field of application

(1) Any Contracting State may declare in its instrument of ratification or accession, or may inform the Government of the Federal Republic of Germany by written notification any time thereafter, that this Convention shall be applicable to one or more of the territories for the external relations of which it is responsible. European patents granted for that Contracting State shall also have effect in the territories for which such a declaration has taken effect.

(2) If the declaration referred to in paragraph 1 is contained in the instrument of ratification or accession, it shall take effect on the same date as the ratification or accession; if the declaration is made in a notification after the deposit of the instrument of ratification or accession, such notification shall take effect six months after the date of its receipt by the Government of the Federal Republic of Germany.

(3) Any Contracting State may at any time declare that the Convention shall cease to apply to some or to all of the territories in respect of which it has given a notification pursuant to paragraph 1. Such declaration shall take effect one year after the date on which the Government of the Federal Republic of Germany received notification thereof.

(2) Vsaka država pogodbenica si lahko pridrži pravico:

(a) da evropski patenti, če zagotavljajo varstvo za kemične, farmacevtske ali prehranske izdelke kot take, nimajo učinka ali so lahko razveljavljeni v skladu z določbami, ki se uporabljajo za državne patente; ta pridržek ne vpliva na varstvo, ki ga zagotavlja patent, če ta vključuje postopek proizvodnje ali uporabo kemičnega izdelka ali postopek proizvodnje farmacevtskega ali prehranskega izdelka;

(b) da evropski patenti, če zagotavljajo varstvo za postopke s področja kmetijstva ali hortikulture, za katere ne velja pododstavek (b) 53. člena, nimajo učinka ali so lahko razveljavljeni v skladu z določbami, ki se uporabljajo za državne patente;

(c) da trajajo evropski patenti manj kot dvajset let v skladu z določbami, ki se uporabljajo za državne patente;

(d) da je ne zavezuje protokol o priznanju.

(3) Vsak pridržek, ki ga da država pogodbenica, učinkuje največ deset let od začetka veljavnosti te konvencije. Če je država pogodbenica dala katerega od pridržkov iz pododstavkov (a) in (b) drugega odstavka, lahko upravni svet zanjo podaljša to obdobje za največ pet let glede vseh ali nekaterih danih pridržkov, če ta država najpozneje eno leto pred koncem desetletnega obdobja predloži obrazloženo zahtevo, ki upravni svet prepriča, da se ta država navedenemu pridržku ne more odreči ob poteku desetletnega obdobja.

(4) Vsaka država pogodbenica, ki je dala pridržek, ga umakne, kakor hitro okoliščine to dopustijo. Umik se opravi z uradnim obvestilom vladi Zvezne republike Nemčije in začne veljati en mesec od datuma prejema uradnega obvestila.

(5) Vsak pridržek, dan v skladu s pododstavkom (a), (b) ali (c) drugega odstavka, se nanaša na evropske patente, podeljene na podlagi evropskih patentnih prijav, vloženih v času, v katerem pridržek velja. Pridržek velja ves čas trajanja patenta.

(6) Brez vpliva na četrti in peti odstavek vsak pridržek neha veljati po poteku obdobja iz prvega stavka tretjega odstavka ali po poteku podaljšane obdobja, če je bilo obdobje podaljšano.

168. člen

Ozemeljsko področje uporabe

(1) Vsaka država pogodbenica lahko v svoji listini o ratifikaciji ali pristopu izjavi ali kadar koli pozneje s pisnim uradnim obvestilom obvesti vladu Zvezne republike Nemčije, da se ta konvencija uporablja na enem ali več ozemljih, za zunanje zadeve katerih je odgovorna. Evropski patenti, podeljeni za to državo pogodbenico, veljajo tudi na ozemljih, za katera je taka izjava začela veljati.

(2) Če je izjava iz prvega odstavka dana v listini o ratifikaciji ali pristopu, začne veljati z dnem ratifikacije ali pristopa; če je izjava dana v uradnem obvestilu po deponiranju listine o ratifikaciji ali pristopu, začne tako uradno obvestilo veljati šest mesecev po datumu, ko ga prejme vlada Zvezne republike Nemčije.

(3) Vsaka država pogodbenica lahko kadar koli izjavi, da se ta konvencija preneha uporabljati za posamezna ali vsa ozemlja, glede katerih je dala uradno obvestilo na podlagi prvega odstavka. Taka izjava začne veljati eno leto po datumu, ko je vlada Zvezne republike Nemčije prejela uradno obvestilo o njej.

Article 169

Entry into force

(1) This Convention shall enter into force three months after the deposit of the last instrument of ratification or accession by six States on whose territory the total number of patent applications filed in 1970 amounted to at least 180 000 for all the said States.

(2) Any ratification or accession after the entry into force of this Convention shall take effect on the first day of the third month after the deposit of the instrument of ratification or accession.

Article 170

Initial contribution

(1) Any State which ratifies or accedes to this Convention after its entry into force shall pay to the Organisation an initial contribution, which shall not be refunded.

(2) The initial contribution shall be 5% of an amount calculated by applying the percentage obtained for the State in question, on the date on which ratification or accession takes effect, in accordance with the scale provided for in Article 40, paragraphs 3 and 4, to the sum of the special financial contributions due from the other Contracting States in respect of the accounting periods preceding the date referred to above.

(3) In the event that special financial contributions were not required in respect of the accounting period immediately preceding the date referred to in paragraph 2, the scale of contributions referred to in that paragraph shall be the scale that would have been applicable to the State concerned in respect of the last year for which financial contributions were required.

Article 171

Duration of the Convention

The present Convention shall be of unlimited duration.

Article 172

Revision

(1) This Convention may be revised by a Conference of the Contracting States.

(2) The Conference shall be prepared and convened by the Administrative Council. The Conference shall not be deemed to be validly constituted unless at least three-quarters of the Contracting States are represented at it. In order to adopt the revised text there must be a majority of three-quarters of the Contracting States represented and voting at the Conference. Abstentions shall not be considered as votes.

(3) The revised text shall enter into force when it has been ratified or acceded to by the number of Contracting States specified by the Conference, and at the time specified by that Conference.

(4) Such States as have not ratified or acceded to the revised text of the Convention at the time of its entry into force shall cease to be parties to this Convention as from that time.

Article 173

Disputes between Contracting States

(1) Any dispute between Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiation shall be submitted, at the request of one of the States concerned, to the Administrative Council, which shall endeavour to bring about agreement between the States concerned.

169. člen

Začetek veljavnosti

(1) Ta konvencija začne veljati tri mesece po deponiranju zadnje listine o ratifikaciji ali pristopu šestih držav, na katerih ozemlju je bilo v letu 1970 skupno vloženi najmanj 180.000 patentnih prijav za vse te države.

(2) Vsaka ratifikacija ali pristop po začetku veljavnosti te konvencije začne veljati prvi dan tretjega meseca po deponiranju listine o ratifikaciji ali pristopu.

170. člen

Začetni prispevek

(1) Vsaka država, ki ratificira to konvencijo ali k njej pristopi po začetku njene veljavnosti, plača Organizaciji začetni prispevek, ki se ne povrne.

(2) Začetni prispevek znaša 5% zneska, izračunanega za zadevno državo na podlagi deleža, določenega na dan, ko je začela veljati ratifikacija ali pristop te države, v skladu z razdelilnikom iz tretjega in četrtega odstavka 40. člena ob upoštevanju celotne vsote posebnih finančnih prispevkov, ki jih dolgujejo druge države pogodbenice za obračunska obdobja pred zgoraj omenjenim datumom.

(3) Kadar se ne zahtevajo posebni finančni prispevki za obračunsko obdobje, ki je neposredno pred datumom iz drugega odstavka, je razdelilnik prispevkov iz omenjenega odstavka razdelilnik, ki bi bil uporabljen za zadevno državo za zadnje leto, za katero so bili zahtevani finančni prispevki.

171. člen

Trajanje konvencije

Trajanje te konvencije je neomejeno.

172. člen

Revizija

(1) Konvencijo lahko spremeni konferenca držav pogodbenic.

(2) Konferenco pripravi in skliče upravni svet. Šteje se, da je konferenca sklepčna, če so na njej zastopane vsaj tri četrtine držav pogodbenic. Za sprejetje spremenjenega besedila je potrebna tričetrtinska večina držav pogodbenic, ki so na konferenci zastopane in glasujejo. Vzdržani glasovi se ne upoštevajo.

(3) Spremenjeno besedilo začne veljati, ko ga ratificira ali k njemu pristopi tako število držav pogodbenic, kot ga določi konferenca, in na dan, ki ga določi konferenca.

(4) Države, ki niso ratificirale spremenjenega besedila konvencije ali k njemu pristopile, ko je to začelo veljati, od takrat niso več pogodbenice te konvencije.

173. člen

Spori med državami pogodbenicami

(1) Vsak spor med državami pogodbenicami glede razlage ali uporabe te konvencije, ki ni rešen s pogajanjem, se na zahtevo ene od prizadetih držav predloži upravnemu svetu, ki si prizadeva doseči sporazum med prizadetimi državami.

(2) If such agreement is not reached within six months from the date when the Administrative Council was seized of the dispute, any one of the States concerned may submit the dispute to the International Court of Justice for a binding decision.

Article 174

Denunciation

Any Contracting State may at any time denounce this Convention. Notification of denunciation shall be given to the Government of the Federal Republic of Germany. Denunciation shall take effect one year after the date of receipt of such notification.

Article 175

Preservation of acquired rights

(1) In the event of a State ceasing to be party to this Convention in accordance with Article 172, paragraph 4, or Article 174, rights already acquired pursuant to this Convention shall not be impaired.

(2) A European patent application which is pending when a designated State ceases to be party to the Convention shall be processed by the European Patent Office, in so far as that State is concerned, as if the Convention in force thereafter were applicable to that State.

(3) The provisions of paragraph 2 shall apply to European patents in respect of which, on the date mentioned in that paragraph, an opposition is pending or the opposition period has not expired.

(4) Nothing in this Article shall affect the right of any State that has ceased to be a party to this Convention to treat any European patent in accordance with the text to which it was a party.

Article 176

Financial rights and obligations of a former Contracting State

(1) Any State which has ceased to be a party to this Convention in accordance with Article 172, paragraph 4, or Article 174, shall have the special financial contributions which it has paid pursuant to Article 40, paragraph 2, refunded to it by the Organisation only at the time and under the conditions whereby the Organisation refunds special financial contributions paid by other States during the same accounting period.

(2) The State referred to in paragraph 1 shall, even after ceasing to be a party to this Convention, continue to pay the proportion pursuant to Article 39 of renewal fees in respect of European patents remaining in force in that State, at the rate current on the date on which it ceased to be a party.

Article 177

Languages of the Convention

(1) This Convention, drawn up in a single original, in the English, French and German languages, shall be deposited in the archives of the Government of the Federal Republic of Germany, the three texts being equally authentic.

(2) The texts of this Convention drawn up in official languages of Contracting States other than those referred to in paragraph 1 shall, if they have been approved by the Administrative Council, be considered as official texts. In the event of conflict on the interpretation of the various texts, the texts referred to in paragraph 1 shall be authentic.

(2) Če ta sporazum ni dosežen v šestih mesecih od datuma, ko je bil spor predložen upravnemu svetu, lahko vsaka od prizadetih držav predloži spor Mednarodnemu sodišču, da to izda zavezujočo odločitev.

174. člen

Odpoved

Vsaka država pogodbenica lahko kadar koli odpove to konvencijo. Uradno obvestilo o odpovedi se pošlje vladi Zvezne republike Nemčije. Odpoved začne veljati eno leto po datumu prejema takega uradnega obvestila.

175. člen

Ohranitev pridobljenih pravic

(1) Kadar država preneha biti pogodbenica te konvencije v skladu s četrnim odstavkom 172. člena ali s 174. členom, se pravice, ki so bile pridobljene s to konvencijo, ne zmanjšajo.

(2) Evropska patentna prijava, ki še ni rešena na dan, ko imenovana država preneha biti pogodbenica te konvencije, se za to državo še naprej obravnava pri Evropskem patentnem uradu, kot da bi se konvencija, kakršna velja po tem dnevu, uporabljala za to državo.

(3) Določbe drugega odstavka se uporabljajo za evropske patente, glede katerih na dan, omenjen v drugem odstavku, ugovor še ni bil rešen ali rok za ugovor še ni potekel.

(4) Ta člen ne vpliva na pravico države, ki je prenehala biti pogodbenica te konvencije, da obravnava evropski patent v skladu z besedilom, katerega pogodbenica je bila.

176. člen

Finančne pravice in obveznosti nekdanje države pogodbenice

(1) Državi, ki je prenehala biti pogodbenica te konvencije v skladu s četrnim odstavkom 172. člena ali s 174. členom, Organizacija vrne posebne finančne prispevke, vplačane na podlagi drugega odstavka 40. člena, šele na dan, ko Organizacija vrača posebne finančne prispevke, ki so jih v istem obračunskem obdobju plačale druge države, in pod predpisanimi pogoji.

(2) Ko država iz prvega odstavka preneha biti pogodbenica te konvencije, mora še naprej plačevati v skladu z 39. členom delež pristojbin za podaljšanje veljavnosti evropskih patentov, ki ostajajo veljavni v tej državi, po stopnji, veljavni na dan, ko je prenehala biti pogodbenica.

177. člen

Jeziki konvencije

(1) Ta konvencija, ki je sestavljena v enem izvorniku v angleškem, francoskem in nemškem jeziku, se hrani v arhivu vlade Zvezne republike Nemčije, pri čemer so vsa tri besedila enako verodostojna.

(2) Besedila te konvencije v uradnih jezikih držav pogodbenic, ki niso jeziki iz prvega odstavka, veljajo za uradna besedila, če jih je odobril upravni svet. Če pride do spora v zvezi z razlago različnih besedil, veljajo za verodostojna besedila iz prvega odstavka.

Article 178

Transmission and notifications

(1) The Government of the Federal Republic of Germany shall draw up certified true copies of this Convention and shall transmit them to the Governments of all signatory or acceding States.

(2) The Government of the Federal Republic of Germany shall notify to the Governments of the States referred to in paragraph 1:

- (a) any signature;
- (b) the deposit of any instrument of ratification or accession;
- (c) any reservation or withdrawal of reservation pursuant to the provisions of Article 167;
- (d) any declaration or notification received pursuant to the provisions of Article 168;
- (e) the date of entry into force of this Convention;
- (f) any denunciation received pursuant to the provisions of Article 174 and the date on which such denunciation comes into force.

(3) The Government of the Federal Republic of Germany shall register this Convention with the Secretariat of the United Nations.

IN WITNESS WHEREOF, the Plenipotentiaries authorised thereto, having presented their Full Powers, found to be in good and due form, have signed this Convention.

Done at Munich this fifth day of October one thousand nine hundred and seventy-three

178. člen

Pošiljanje in uradna obvestila

(1) Vlada Zvezne republike Nemčije sestavi overjene kopije te konvencije in jih pošlje vladam držav, ki so podpisale konvencijo ali so k njej pristopile.

(2) Vlada Zvezne republike Nemčije uradno obvesti vlade držav iz prvega odstavka o:

- (a) vsakem podpisu;
- (b) deponiranju vsake listine o ratifikaciji ali pristopu;
- (c) vsakem pridržku ali umiku pridržka na podlagi določb 167. člena;
- (d) vsaki izjavi ali uradnem obvestilu, prejetem na podlagi določb 168. člena;
- (e) datumu začetka veljavnosti te konvencije;
- (f) vsaki odpovedi, prejeti na podlagi določb 174. člena, in datumu, ko začne taka odpoved veljati.

(3) Vlada Zvezne republike Nemčije registrira to konvencijo pri sekretariatu Združenih narodov.

V potrditev navedenega so imenovani pooblaščenca po predložitvi svojih pooblastil v pravilni in predpisani obliki podpisali to konvencijo.

Sestavljeno v Münchnu petega oktobra leta tisoč devetsto tridesetdeset.

**PROTOCOL
ON THE INTERPRETATION OF ARTICLE 69 OF
THE CONVENTION**

Article 69 should not be interpreted in the sense that the extent of the protection conferred by a European patent is to be understood that defined by the strict, literal meaning of the wording used in the claims, the description and drawings being employed only for the purpose of resolving an ambiguity found in the claims. Neither should it be interpreted in the sense that the claims serve only as a guideline and that the actual protection conferred may extend to what, from a consideration of the description and drawings by a person skilled in the art, the patentee has contemplated. On the contrary, it is to be interpreted as defining a position between these extremes which combines a fair protection for the patentee with a reasonable degree of certainty for third parties.

**PROTOKOL
O RAZLAGI 69. ČLENA**

z dne 5. oktobra 1973

69. člen se ne sme razlagati, kot da je obseg varstva, ki ga daje evropski patent, določen s strogim, dobesednim pomenom besedila patentnih zahtevkov, in da so opis in skice uporabljeni le za razrešitev nejasnosti v patentnih zahtevkih. Prav tako se ne sme razlagati, kot da patentni zahtevki rabijo le kot smernica in kot da se dejansko dano varstvo lahko razširi na tisto, za kar strokovnjak na podlagi proučitve opisa in skic meni, da je imetnik patenta želel zavarovati. Nasprotno, razlagati se mora, kot da določa položaj med tema skrajnostma, ki združuje primerno varstvo za imetnika patenta z razumno stopnjo zanesljivosti za tretje osebe.

**PROTOCOL
ON THE CENTRALISATION OF THE EUROPEAN
PATENT SYSTEM AND ON ITS INTRODUCTION
(PROTOCOL ON CENTRALISATION)**

of 5 October 1973

Section I

(1)(a) Upon entry into force of the Convention, States parties thereto which are also members of the International Patent Institute set up by the Hague Agreement of 6 June 1947 shall take all necessary steps to ensure the transfer to the European Patent Office no later than the date referred to in Article 162, paragraph 1, of the Convention of all assets and liabilities and all staff members of the International Patent Institute. Such transfer shall be effected by an agreement between the International Patent Institute and the European Patent Organisation. The above States and the other States parties to the Convention shall take all necessary steps to ensure that that agreement shall be implemented no later than the date referred to in Article 162, paragraph 1, of the Convention. Upon implementation of the agreement, those Member States of the International Patent Institute which are also parties to the Convention further undertake to terminate their participation in the Hague Agreement.

(b) The States parties to the Convention shall take all necessary steps to ensure that all the assets and liabilities and all the staff members of the International Patent Institute are taken into the European Patent Office in accordance with the agreement referred to in sub-paragraph (a). After the implementation of that agreement the tasks incumbent upon the International Patent Institute at the date on which the Convention is opened for signature, and in particular those carried out vis-a-vis its Member States, whether or not they become parties to the Convention, and such tasks as it has undertaken at the time of the entry into force of the Convention to carry out vis-a-vis States which, at that date, are both members of the International Patent Institute and parties to the Convention, shall be assumed by the branch located at The Hague. In addition, the Administrative Council of the European Patent Organisation may allocate further duties in the field of searching to that branch.

(c) The above obligations shall also apply mutatis mutandis to the sub-office set up under the Hague Agreement under the conditions set out in the agreement between the International Patent Institute and the Government of the Contracting State concerned. This Government hereby undertakes to make a new agreement with the European Patent Organisation in place of the one already made with the International Patent Institute to harmonise the clauses concerning the organisation, operation and financing of the sub-office with the provisions of this Protocol.

(2) Subject to the provisions of Section III, the States parties to the Convention shall, on behalf of their central industrial property offices, renounce in favour of the European Patent Office any activities as International Searching Authorities under the Patent Cooperation Treaty as from the date referred to in Article 162, paragraph 1, of the Convention.

(3)(a) A sub-office of the European Patent Office for searching European patent applications shall be set up in Berlin (West) as from the date referred to in Article 162, paragraph 1, of the Convention. It shall operate under the direction of the branch at The Hague.

**PROTOKOL
O CENTRALIZACIJI IN UVAJANJU
EVROPSKEGA PATENTNEGA SISTEMA
(PROTOKOL O CENTRALIZACIJI)**

z dne 5. oktobra 1973

I. oddelek

(1)(a) Po uveljavitvi konvencije države pogodbenice, ki so tudi članice Mednarodnega patentnega inštituta, ustanovljenega s Haaškim sporazumom z dne 6. junija 1947, storijo vse potrebno, da se najpozneje z datumom, na katerega se sklicuje prvi odstavek 162. člena konvencije zagotovi prenos vseh sredstev in obveznosti in vsega osebja Mednarodnega patentnega inštituta na Evropski patentni urad. Prenos se opravi na podlagi sporazuma med Mednarodnim patentnim inštitutom in Evropsko patentno organizacijo. Prej omenjene države in druge države pogodbenice konvencije storijo vse potrebno, da se ta sporazum začne izvajati najpozneje z datumom, na katerega se sklicuje prvi odstavek 162. člena konvencije. Po uveljavitvi sporazuma se tiste države članice Mednarodnega patentnega inštituta, ki so tudi pogodbenice konvencije, zavežejo, da bodo prenehale sodelovati v Haaškem sporazumu.

(b) Države pogodbenice konvencije storijo vse potrebno, da Evropski patentni urad v skladu s sporazumom iz pododstavka (a) prevzame vsa sredstva in obveznosti in vse osebje Mednarodnega patentnega inštituta. Po uveljavitvi tega sporazuma podružnica v Haagu prevzame naloge, ki jih ima Mednarodni patentni inštitut na datum, s katerim je konvencija na voljo za podpis, zlasti tiste, ki jih izvaja za svoje države članice ne glede na to, ali te postanejo članice konvencije ali ne, in tiste naloge, ki se jih je, ko je konvencija začela veljati, obvezal izvajati za države, ki so na ta datum članice Mednarodnega patentnega inštituta in pogodbenice konvencije. Poleg tega lahko upravni svet Evropske patentne organizacije dodeli podružnici v Haagu tudi druge naloge s področja poizvedb.

(c) Omenjene obveznosti se smiselno uporabljajo za izpostavo, ustanovljeno po Haaškem sporazumu po pogojih, določenih v sporazumu med Mednarodnim patentnim inštitutom in vlado države pogodbenice. Ta vlada se s tem zaveže, da bo z Evropsko patentno organizacijo sklenila nov sporazum, ki bo nadomestil tistega, ki je bil že sklenjen z Mednarodnim patentnim inštitutom, da uskladi določbe glede organizacije, delovanja in financiranja izpostave s tem protokolom.

(2) Ob upoštevanju določb III. oddelka se države pogodbenice konvencije z datumom, na katerega se sklicuje prvi odstavek 162. člena konvencije, v imenu svojih osrednjih uradov za industrijsko lastnino odpovedo v korist Evropskega patentnega urada vsem dejavnostim, ki bi jih opravljale kot mednarodne ustanove za poizvedbo po Pogodbi o sodelovanju na področju patentov.

(3)(a) Izpostava Evropskega patentnega urada za poizvedbe o evropskih patentnih prijavah se z datumom, na katerega se sklicuje prvi odstavek 162. člena konvencije, ustanovi v Berlinu (Zahodnem). Deluje po navodilih podružnice v Haagu.

(b) The Administrative Council shall determine the duties to be allocated to the sub-office in Berlin in the light of general considerations and of the requirements of the European Patent Office with regard to searching.

(c) At least at the beginning of the period following the progressive expansion of the field of activity of the European Patent Office, the amount of work assigned to that sub-office shall be sufficient to enable the examining staff of the Berlin Annex of the German Patent Office, as it stands at the date on which the Convention is opened for signature, to be fully employed.

(d) The Federal Republic of Germany shall bear any additional costs incurred by the European Patent Organisation in setting up and maintaining the sub-office in Berlin.

Section II

Subject to the provisions of Sections III and IV, the States parties to the Convention shall, on behalf of their central industrial property offices, renounce in favour of the European Patent Office any activities as International Preliminary Examining Authorities under the Patent Cooperation Treaty. This obligation shall apply only to the extent to which the European Patent Office may examine European patent applications in accordance with Article 162, paragraph 2, of the Convention and shall not apply until two years after the date on which the European Patent Office has begun examining activities in the areas of technology concerned, on the basis of a five-year plan which shall progressively extend the activities of the European Patent Office to all areas of technology and which may be amended only by decision of the Administrative Council. The procedures for implementing this obligation shall be determined by decision of the Administrative Council.

Section III

(1) The central industrial property office of any State party to the Convention in which the official language is not one of the official languages of the European Patent Office, shall be authorised to act as an International Searching Authority and as an International Preliminary Examining Authority under the Patent Cooperation Treaty. Such authorisation shall be subject to an undertaking by the State concerned to restrict such activities to international applications filed by nationals or residents of such State and by nationals or residents of States parties to the Convention which are adjacent to that State. The Administrative Council may decide to authorise the central industrial property office of any State party to the Convention to extend such activities to cover such international applications as may be filed by nationals or residents of any non-Contracting State having the same official language as the Contracting State in question and drawn up in that language.

(2) For the purpose of harmonising search activities under the Patent Cooperation Treaty within the framework of the European system for the grant of patents, co-operation shall be established between the European Patent Office and any central industrial property office authorised under this Section. Such co-operation shall be based on a special agreement which may cover e.g. search procedures and methods, qualifications required for the recruitment and training of examiners, guidelines for the exchange of search and other services between the offices as well as other measures needed to establish the required control and supervision.

(b) Upravni svet določi naloge, ki se dodelijo izpostavi v Berlinu, z vidika splošne ocene in zahtev Evropskega patentnega urada glede poizvedb.

(c) Vsaj na začetku obdobja, ki sledi postopni širitvi področja dejavnosti Evropskega patentnega urada, mora obseg dela, dodeljenega izpostavi, zadoščati za polno zaposlitev preizkuševalskega osebja berlinske enote nemškega patentnega urada, kakršna je na datum, ko je konvencija na voljo za podpis.

(d) Zvezna republika Nemčija nosi vse dodatne stroške, ki jih ima Evropska patentna organizacija z ustanovitvijo in vzdrževanjem izpostave v Berlinu.

II. oddelek

Ob upoštevanju določb III. in IV. oddelka se države pogodbenice konvencije v imenu svojih osrednjih uradov za industrijsko lastnino odpovedo v korist Evropskega patentnega urada vsem dejavnostim, ki bi jih opravljale kot mednarodne ustanove za predhodni preizkus po Pogodbi o sodelovanju na področju patentov. Ta obveznost velja le v obsegu, v katerem lahko Evropski patentni urad preizkuša evropske patentne prijave v skladu z drugim odstavkom 162. člena konvencije, veljati pa začne dve leti po datumu, ko je Evropski patentni urad začel opravljati preizkuševalsko dejavnostjo na področjih zadevne tehnologije na podlagi petletnega načrta, s katerim se postopno širijo dejavnosti Evropskega patentnega urada na vsa tehnološka področja in ki ga je mogoče spreminjati le z odločitvijo upravnega sveta. Postopki za izvajanje te obveznosti se določijo z odločitvijo upravnega sveta.

III. oddelek

(1) Osrednji urad za industrijsko lastnino katere koli države pogodbenice konvencije, v kateri uradni jezik ni eden od uradnih jezikov Evropskega patentnega urada, je pooblaščen, da deluje kot mednarodni organ za poizvedbe in kot mednarodni organ za predhodni preizkus po Pogodbi o sodelovanju na področju patentov. Pooblastilo je pogojeno z obveznostjo zadevne države, da omeji take dejavnosti na mednarodne prijave, ki jih vložijo njeni državljani ali osebe s stalnim prebivališčem v njej in državljani držav pogodbenic konvencije, ki mejijo na to državo, ali osebe s stalnim prebivališčem v njih. Upravni svet se lahko odloči pooblastiti osrednji urad za industrijsko lastnino države pogodbenice konvencije, da razširi take dejavnosti na mednarodne prijave, ki jih vložijo državljani države, ki ni pogodbenica, ali osebe s stalnim prebivališčem v njej, če ima ta država isti uradni jezik kot država pogodbenica in so prijave sestavljene v tem jeziku.

(2) Zaradi uskladitve poizvedbenih dejavnosti po Pogodbi o sodelovanju na področju patentov v okviru evropskega sistema podeljevanja patentov se vzpostavi sodelovanje med Evropskim patentnim uradom in vsakim osrednjim uradom za industrijsko lastnino, pooblaščenim po tem oddelku. Tako sodelovanje temelji na posebnem sporazumu, ki lahko obsega na primer postopke in načine poizvedbe, zahtevane pogoje za zaposlovanje in usposabljanje preizkuševalcev, navodila za izmenjavo poizvedb in drugih storitev med uradoma kot tudi druge ukrepe za vzpostavitev zahtevnega nadzora.

Section IV

(1)(a) For the purpose of facilitating the adaptation of the national patent offices of the States parties to the Convention to the European patent system, the Administrative Council may, if it considers it desirable, and subject to the conditions set out below, entrust the central industrial property offices of such of those States in which it is possible to conduct the proceedings in one of the official languages of the European Patent Office with tasks concerning the examination of European patent applications drawn up in that language which, pursuant to Article 18, paragraph 2, of the Convention, shall, as a general rule, be entrusted to a member of the Examining Division. Such tasks shall be carried out within the framework of the proceedings for grant laid down in the Convention; decisions on such applications shall be taken by the Examining Division composed in accordance with Article 18, paragraph 2.

(b) Tasks entrusted under sub-paragraph (a) shall not be in respect of more than 40% of the total number of European patent applications filed; tasks entrusted to any one State shall not be in respect of more than onethird of the total number of European patent applications filed. These tasks shall be entrusted for a period of 15 years from the opening of the European Patent Office and shall be reduced progressively (in principle by 20% a year) to zero during the last 5 years of the period.

(c) The Administrative Council shall decide, while taking into account the provisions of sub-paragraph (b), upon the nature, origin and number of the European patent applications in respect of which examining tasks may be entrusted to the central industrial property office of each of the Contracting States mentioned above.

(d) The above implementing procedures shall be set out in a special agreement between the central industrial property office of the Contracting State concerned and the European Patent Organisation.

(e) An office with which such a special agreement has been concluded may act as an International Preliminary Examining Authority under the Patent Cooperation Treaty, until the expiry of the period of 15 years.

(2)(a) If the Administrative Council considers that it is compatible with the proper functioning of the European Patent Office, and in order to alleviate the difficulties which may arise for certain Contracting States from the application of Section I, paragraph 2, it may entrust searching in respect of European patent applications to the central industrial property offices of those States in which the official language is one of the official languages of the European Patent Office, provided that these offices possess the necessary qualifications for appointment as an International Searching Authority in accordance with the conditions laid down in the Patent Cooperation Treaty.

(b) In carrying out such work, undertaken under the responsibility of the European Patent Office, the central industrial property offices concerned shall adhere to the guidelines applicable to the drawing up of the European search report.

(c) The provisions of paragraph 1(b), second sentence, and sub-paragraph (d) of this Section shall apply to this paragraph.

IV. oddelek

(1)(a) Da bi se državni patentni uradi držav pogodbenic konvencije lažje prilagodili evropskemu patentnemu sistemu, sme upravni svet, če meni, da je to zaželeno in ob upoštevanju v nadaljevanju določenih pogojev, osrednjim uradom za industrijsko lastnino tistih od teh držav, v katerih je mogoče voditi postopek v enem od uradnih jezikov Evropskega patentnega urada, zaupati naloge v zvezi s preizkusom evropskih patentnih prijav, sestavljenih v tem jeziku, ki so po drugem odstavku 18. člena konvencije praviloma zaupane preizkuševalcu v oddelku za preizkuse. Take naloge se opravljajo v okviru postopka podelitve, določenega v konvenciji; odločitve o takih prijavah sprejema oddelek za preizkuse, ki je sestavljen v skladu z drugim odstavkom 18. člena.

(b) Zaupane naloge po pododstavku (a) se ne morejo nanašati na več kot 40% celotnega števila vloženih evropskih patentnih prijav; naloge, zaupane eni sami državi, se ne morejo nanašati na več kot tretjino celotnega števila vloženih evropskih patentnih prijav. Te naloge se zaupajo za obdobje 15 let od odprtja Evropskega patentnega urada in njihovo število se v zadnjem petletnem obdobju postopno (načeloma za 20% letno) zmanjšujejo do ničle.

(c) Upravni svet ob upoštevanju določb pododstavka (b) odloči o vrsti, izvoru in številu evropskih patentnih prijav, v zvezi s katerimi se lahko osrednjemu uradu za industrijsko lastnino vsake prej omenjene države pogodbenice zaupajo preizkuševalske naloge.

(d) Izvedbeni postopki se določijo v posebnem sporazumu med osrednjim uradom za industrijsko lastnino zadevne države pogodbenice in Evropsko patentno organizacijo.

(e) Urad, s katerim je bil sklenjen tak poseben sporazum, lahko deluje kot mednarodni organ za predhodni preizkus po Pogodbi o sodelovanju na področju patentov do poteka obdobja 15 let.

(2)(a) Da bi se zmanjšale težave, ki bi jih lahko imele države pogodbenice zaradi uporabe drugega odstavka I. oddelka, lahko upravni svet, če meni, da je to združljivo z dobrim delovanjem Evropskega patentnega urada, zaupa poizvedbe v zvezi z evropskimi patentnimi prijavami osrednjim uradom za industrijsko lastnino tistih držav, v katerih je uradni jezik eden od uradnih jezikov Evropskega patentnega urada, pod pogojem da so ti uradi primerno usposobljeni, da bi bili lahko imenovani za mednarodni organ za poizvedbe v skladu s pogoji, določenimi v Pogodbi o sodelovanju na področju patentov.

(b) Pri izvajanju te naloge, za katero je odgovoren Evropski patentni urad, se osrednji uradi za industrijsko lastnino ravnajo po navodilih za sestavo evropskega poročila o poizvedbi.

(c) Za ta odstavek se uporabljata določbi drugega stavka pododstavka (b) prvega odstavka in pododstavka (d) tega oddelka.

Section V

(1) The sub-office referred to in Section I, paragraph 1(c), shall be authorised to carry out searches, among the documentation which is at its disposal and which is in the official language of the State in which the suboffice is located, in respect of European patent applications filed by nationals and residents of that State. This authorisation shall be on the understanding that the procedure for the grant of European patents will not be delayed and that additional costs will not be incurred for the European Patent Organisation.

(2) The sub-office referred to in paragraph 1 shall be authorised to carry out, at the option of an applicant for a European patent and at his expense, a search on his patent application among the documentation referred to in paragraph 1. This authorisation shall be effective until the search provided for in Article 92 of the Convention has been extended, in accordance with Section VI, to cover such documentation and shall be on the understanding that the procedure for the grant of European patents will not be delayed.

(3) The Administrative Council may also extend the authorisations provided for in paragraphs 1 and 2, under the conditions of those paragraphs, to the central industrial property office of a Contracting State which does not have as an official language one of the official languages of the European Patent Office.

Section VI

The search provided for in Article 92 of the Convention shall, in principle, be extended, in respect of all European patent applications, to published patents, published patent applications and other relevant documents of Contracting States not included in the search documentation of the European Patent Office on the date referred to in Article 162, paragraph 1, of the Convention. The extent, conditions and timing of any such extension shall be determined by the Administrative Council on the basis of a study concerning particularly the technical and financial aspects.

Section VII

The provisions of this Protocol shall prevail over any contradictory provisions of the Convention.

Section VIII

The decisions of the Administrative Council provided for in this Protocol shall require a three-quarters majority (Article 35, paragraph 2, of the Convention). The provisions governing the weighting of votes (Article 36 of the Convention) shall apply.

V. oddelek

(1) Izpostava iz pododstavka (c) prvega odstavka I. oddelka je pooblaščenca, da za evropske patentne prijave, ki so jih vložili državljani države, v kateri je izpostava, ali osebe s stalnim prebivališčem v njej, opravlja poizvedbe po dokumentaciji, ki jo ima na voljo in ki je v uradnem jeziku te države. To pooblastilo pa ne sme povzročati zamud v postopku podelitve evropskih patentov in dodatnih stroškov za Evropsko patentno organizacijo.

(2) Izpostava iz prvega odstavka je pooblaščenca, da po izbiri prijavitelja evropskega patenta in na njegove stroške opravi poizvedbo za njegovo patentno prijavo po dokumentaciji iz prvega odstavka. To pooblastilo velja, dokler se poizvedba, predvidena v 92. členu konvencije, v skladu s VI. oddelkom ne razširi na to dokumentacijo, vendar pa to ne sme povzročiti zamude v postopku podelitve evropskih patentov.

(3) Upravni svet lahko tudi razširi pooblastili iz prvega in drugega odstavka po pogojih iz teh dveh odstavkov na osrednji urad za industrijsko lastnino države pogodbenice, katere uradni jezik ni eden od uradnih jezikov Evropskega patentnega urada.

VI. oddelek

Poizvedba, predvidena v 92. členu konvencije, se načeloma razširi za vse evropske patentne prijave na objavljene patente, objavljene patentne prijave in druge ustrezne dokumente držav pogodbenic, ki na datum iz prvega odstavka 162. člena konvencije niso vključeni v dokumentacijo za poizvedbe Evropskega patentnega urada. Obseg, pogoje in časovno uskladitev takih razširitev določi upravni svet na podlagi proučitve zlasti tehničnih in finančnih vidikov.

VII. oddelek

Določbe tega protokola prevladajo nad nasprotnimi določbami konvencije.

VIII. oddelek

Za odločitve upravnega sveta, predvidene v tem protokolu, se zahteva tričetrtinska večina (drugi odstavek 35. člena konvencije). Uporabljajo se določbe, ki urejajo tehtanje glasov (36. člen konvencije).

**PROTOCOL
ON JURISDICTION AND THE RECOGNITION OF
DECISIONS IN RESPECT OF THE RIGHT TO THE
GRANT OF A EUROPEAN PATENT
(PROTOCOL ON RECOGNITION)**

of 5 October 1973

Section I
Jurisdiction

Article 1

(1) The courts of the Contracting States shall, in accordance with Articles 2 to 6, have jurisdiction to decide claims, against the applicant, to the right to the grant of a European patent in respect of one or more of the Contracting States designated in the European patent application.

(2) For the purposes of this Protocol, the term "courts" shall include authorities which, under the national law of a Contracting State, have jurisdiction to decide the claims referred to in paragraph 1. Any Contracting State shall notify the European Patent Office of the identity of any authority on which such a jurisdiction is conferred, and the European Patent Office shall inform the other Contracting States accordingly.

(3) For the purposes of this Protocol, the term "Contracting State" refers to a Contracting State which has not excluded application of this Protocol pursuant to Article 167 of the Convention.

Article 2

Subject to Articles 4 and 5, if an applicant for a European patent has his residence or principal place of business within one of the Contracting States, proceedings shall be brought against him in the courts of that Contracting State.

Article 3

Subject to Articles 4 and 5, if an applicant for a European patent has his residence or principal place of business outside the Contracting States, and if the party claiming the right to the grant of the European patent has his residence or principal place of business within one of the Contracting States, the courts of the latter State shall have exclusive jurisdiction.

Article 4

Subject to Article 5, if the subject-matter of a European patent application is the invention of an employee, the courts of the Contracting State, if any, whose law determines the right to the European patent pursuant to Article 60, paragraph 1, second sentence, of the Convention, shall have exclusive jurisdiction over proceedings between the employee and the employer.

Article 5

(1) If the parties to a dispute concerning the right to the grant of a European patent have concluded an agreement, either in writing or verbally with written confirmation, to the effect that a court or the courts of a particular Contracting State shall decide on such a dispute, the court or courts of that State shall have exclusive jurisdiction.

(2) However, if the parties are an employee and his employer, paragraph 1 shall only apply in so far as the national law governing the contract of employment allows the agreement in question.

**PROTOKOL
O SODNI PRISTOJNOSTI IN PRIZNANJU
ODLOČITEV O PRAVICI DO PODELITVE
EVROPSKEGA PATENTA
(PROTOKOL O PRIZNANJU)**

z dne 5. oktobra 1973

I. oddelek
Pristojnost

1. člen

(1) Sodišča držav pogodbenic so v skladu z 2. do 6. členom pristojna, da odločajo o tožbah proti prijavitelju v zvezi s pravico do podelitve evropskega patenta za eno ali več držav pogodbenic, imenovanih v evropski patentni prijavi.

(2) V tem protokolu izraz "sodišča" vključuje organe, ki so po domačem pravu države pogodbenice pristojni, da odločajo o tožbah iz prvega odstavka. Države pogodbenice uradno obvestijo Evropski patentni urad o organih, ki jim je dana taka pristojnost, ta pa o tem obvesti druge države pogodbenice.

(3) V tem protokolu se izraz "država pogodbenica" nanaša na državo pogodbenico, ki ni izključila uporabe tega protokola po 167. členu konvencije.

2. člen

Če ima prijavitelj evropskega patenta stalno prebivališče ali sedež podjetja v eni od držav pogodbenic, se ob upoštevanju 4. in 5. člena postopki zoper njega začnejo na sodiščih te države.

3. člen

Če prijavitelj evropskega patenta nima stalnega prebivališča ali sedeža podjetja v nobeni od držav pogodbenic in če ima stranka, ki zahteva pravico do podelitve evropskega patenta, stalno prebivališče ali sedež podjetja v eni od držav pogodbenic, imajo ob upoštevanju 4. in 5. člena sodišča te države izključno pristojnost.

4. člen

Če je predmet evropske patentne prijave izum delojemalca, so ob upoštevanju 5. člena sodišča države pogodbenice, katere pravo določa pravico do evropskega patenta na podlagi drugega stavka prvega odstavka 60. člena konvencije, izključno pristojna za pravne spore med delojemalcem in delodajalcem.

5. člen

(1) Če sta stranki v sporu glede pravice do podelitve evropskega patenta sklenili sporazum, bodisi pisni ali ustni s pisno potrditvijo, da naj sodišče ali sodišča določene države pogodbenice odločijo o tem sporu, ima to sodišče ali sodišča izključno pristojnost.

(2) Če sta stranki delojemalec in njegov delodajalec, se prvi odstavek uporablja le, če domače pravo, ki ureja pogodbe o delu, dopušča tak sporazum.

Article 6

In cases where neither Articles 2 to 4 nor Article 5, paragraph 1, apply, the courts of the Federal Republic of Germany shall have exclusive jurisdiction.

Article 7

The courts of Contracting States before which claims referred to in Article 1 are brought shall of their own motion decide whether or not they have jurisdiction pursuant to Articles 2 to 6.

Article 8

(1) In the event of proceedings based on the same claim and between the same parties being brought before courts of different Contracting States, the court to which a later application is made shall of its own motion decline jurisdiction in favour of the court to which an earlier application was made.

(2) In the event of the jurisdiction of the court to which an earlier application is made being challenged, the court to which a later application is made shall stay the proceedings until the other court takes a final decision.

Section II
Recognition*Article 9*

(1) Subject to the provisions of Article 11, paragraph 2, final decisions given in any Contracting State on the right to the grant of a European patent in respect of one or more of the Contracting States designated in the European patent application shall be recognised without requiring a special procedure in the other Contracting States.

(2) The jurisdiction of the court whose decision is to be recognised and the validity of such decision may not be reviewed.

Article 10

Article 9, paragraph 1, shall not be applicable where:

(a) an applicant for a European patent who has not contested a claim proves that the document initiating the proceedings was not notified to him regularly and sufficiently early for him to defend himself; or

(b) an applicant proves that the decision is incompatible with another decision given in a Contracting State in proceedings between the same parties which were started before those in which the decision to be recognised was given.

Article 11

(1) In relations between any Contracting States the provisions of this Protocol shall prevail over any conflicting provisions of other agreements on jurisdiction or the recognition of judgments.

(2) This Protocol shall not affect the implementation of any agreement between a Contracting State and a State which is not bound by the Protocol.

6. člen

V primerih, ko se ne uporabljajo niti 2. do 4. člen niti prvi odstavek 5. člena, imajo izključno pristojnost sodišča Zvezne republike Nemčije.

7. člen

Sodišča držav pogodbenic, pri katerih so vložene tožbe iz 1. člena, na svojo pobudo preverijo, ali so pristojna po 2. do 6. členu.

8. člen

(1) V primeru pravnih sporov med istima strankama, ki temeljijo na istem zahtevku in so pred sodišči različnih držav pogodbenic, sodišče, pri katerem je bila tožba vložena pozneje, na svojo pobudo odkloni pristojnost v korist sodišča, pri katerem je bila tožba prej vložena.

(2) Če je pristojnost sodišča, pri katerem je bila tožba prej vložena, izpodbijana, sodišče, pri katerem je bila tožba vložena pozneje, ustavi postopek, dokler drugo sodišče ne sprejme končne odločitve.

II. oddelek
Priznanje*9. člen*

(1) Ob upoštevanju določb drugega odstavka 11. člena se končne odločitve, sprejete v neki državi pogodbenici v zvezi s pravico do podelitve evropskega patenta za eno ali več držav pogodbenic, imenovanih v evropski patentni prijavi, priznajo v drugih državah pogodbenicah, ne da bi se zahteval poseben postopek.

(2) Pristojnost sodišča, katerega odločitev je treba priznati, in veljavnost take odločitve se ne smeta več presoјati.

10. člen

Prvi odstavek 9. člena se ne uporablja:

(a) kadar prijavitelj evropskega patenta, ki ni izpodbijal tožbe, dokaže, da o dokumentu, s katerim se je začel sodni spor, ni bil pravilno in dovolj zgodaj uradno obveščen, da bi se bil lahko branil; ali

(b) kadar prijavitelj dokaže, da je odločitev nezdružljiva z drugo odločitvijo, sprejeto v neki državi pogodbenici v sodnem sporu med istimi strankami, ki se je začel pred tistim, v katerem je bila sprejeta odločitev, ki jo je treba priznati.

11. člen

(1) V odnosih med državami pogodbenicami določbe tega protokola prevladajo nad nasprotnimi določbami drugih sporazumov o sodni pristojnosti ali priznanju sodb.

(2) Ta protokol ne vpliva na izvajanje drugih sporazumov med državo pogodbenico in državo, ki je ta protokol ne obvezuje.

**PROTOCOL
ON PRIVILEGES AND IMMUNITIES
OF THE EUROPEAN PATENT ORGANISATION
(PROTOCOL ON PRIVILEGES AND IMMUNITIES)**

of 5 October 1973

Article 1

(1) The premises of the Organisation shall be inviolable.

(2) The authorities of the States in which the Organisation has its premises shall not enter those premises, except with the consent of the President of the European Patent Office. Such consent shall be assumed in case of fire or other disaster requiring prompt protective action.

(3) Service of process at the premises of the Organisation and of any other procedural instruments relating to a cause of action against the Organisation shall not constitute breach of inviolability.

Article 2

The archives of the Organisation and any documents belonging to or held by it shall be inviolable.

Article 3

(1) Within the scope of its official activities the Organisation shall have immunity from jurisdiction and execution, except

(a) to the extent that the Organisation shall have expressly waived such immunity in a particular case;

(b) in the case of a civil action brought by a third party for damage resulting from an accident caused by a motor vehicle belonging to, or operated on behalf of, the Organisation, or in respect of a motor traffic offence involving such a vehicle;

(c) in respect of the enforcement of an arbitration award made under Article 23.

(2) The property and assets of the Organisation, wherever situated, shall be immune from any form of requisition, confiscation, expropriation and sequestration.

(3) The property and assets of the Organisation shall also be immune from any form of administrative or provisional judicial constraint, except in so far as may be temporarily necessary in connection with the prevention of, and investigation into, accidents involving motor vehicles belonging to or operated on behalf of the Organisation.

(4) The official activities of the Organisation shall, for the purposes of this Protocol, be such as are strictly necessary for its administrative and technical operation, as set out in the Convention.

Article 4

(1) Within the scope of its official activities the Organisation and its property and income shall be exempt from all direct taxes.

(2) Where substantial purchases for the exercise of its official activities, and in the price of which taxes or duties are included, are made by the Organisation, appropriate measures shall, whenever possible, be taken by the Contracting States to remit or reimburse to the Organisation the amount of such taxes or duties.

(3) No exemption shall be accorded in respect of duties and taxes which are no more than charges for public utility services.

**PROTOKOL
O PRIVILEGIJAH IN IMUNITETAH
EVROPSKE PATENTNE ORGANIZACIJE
(PROTOKOL O PRIVILEGIJAH IN IMUNITETAH)**

z dne 5. oktobra 1973

1. člen

(1) Prostorji Organizacije so nedotakljivi.

(2) Organi držav, v kateri ima Organizacija svoje prostore, lahko stopijo v te prostore le s privoljenjem predsednika Evropskega patentnega urada. Tako privoljenje je samoumevno ob požaru ali drugi nesreči, ki zahteva takojšnje zaščitno ukrepanje.

(3) Vročitev sodnih pozivov in drugih postopkovnih listin, ki so v zvezi s pravno podlago tožbe zoper Organizacijo, v njenih prostorih ni kršitev nedotakljivosti.

2. člen

Arhivi Organizacije in vsi dokumenti, ki ji pripadajo ali jih ima v posesti, so nedotakljivi.

3. člen

(1) V okviru uradnih dejavnosti ima Organizacija imuniteto pred sodno pristojnostjo in izvršbo, razen:

(a) če se je Organizacija v določenem primeru izrecno odpovedala taki imuniteti;

(b) če je tretja oseba vložila civilno tožbo zaradi škode, nastale v nesreči, ki jo je povzročilo motorno vozilo, ki pripada Organizaciji ali je zanjo vozilo, ali v zvezi s prometnim prekrškom, v katerega je bilo vpleteno tako vozilo;

(c) v zvezi z izvršbo arbitražne odločbe, sprejete po 23. členu.

(2) Lastnina in premoženje Organizacije, kjer koli že sta, imata imuniteto pred vsako obliko zasega, zaplembe, razlastitve in prisilne uprave.

(3) Lastnina in premoženje Organizacije imata imuniteto tudi pred vsako obliko upravne ali začasne sodne prisile, razen če je ta začasno potrebna v zvezi s preprečitvijo nesreč, v katere bi bila lahko vpletena motorna vozila, ki pripadajo Organizaciji ali zanjo vozijo, in preiskavo takih nesreč.

(4) V tem protokolu so uradne dejavnosti Organizacije tiste, ki so nujno potrebne za njeno upravno in tehnično delovanje na podlagi konvencije.

4. člen

(1) V okviru uradnih dejavnosti so Organizacija, njena lastnina in dohodki oproščeni vseh neposrednih davkov.

(2) Kadar Organizacija za izvajanje uradnih dejavnosti opravi velike nakupe, katerih cena vključuje davke ali druge dajatve, države pogodbenice sprejmejo, če je le mogoče, ustrezne ukrepe za oprostitev ali povrnitev zneska teh davkov ali drugih dajatev Organizaciji.

(3) V zvezi z davki in drugimi dajatvami, ki so le stroški za komunalne storitve, se ne odobrijo nobene oprostitve.

Article 5

Goods imported or exported by the Organisation for the exercise of its official activities shall be exempt from duties and charges on import or export other than fees or taxes representing services rendered, and from all prohibitions and restrictions on import or export.

Article 6

No exemption shall be granted under Articles 4 and 5 in respect of goods purchased or imported for the personal benefit of the employees of the European Patent Office.

Article 7

(1) Goods belonging to the Organisation which have been acquired or imported under Article 4 or Article 5 shall not be sold or given away except in accordance with conditions laid down by the Contracting States which have granted the exemptions.

(2) The transfer of goods and provision of services between the various buildings of the Organisation shall be exempt from charges or restrictions of any kind; where appropriate, the Contracting States shall take all the necessary measures to remit or reimburse the amount of such charges or to lift such restrictions.

Article 8

The transmission of publications and other information material by or to the Organisation shall not be restricted in any way.

Article 9

The Contracting States shall accord the Organisation the currency exemptions which are necessary for the exercise of its official activities.

Article 10

(1) With regard to its official communications and the transfer of all its documents, the Organisation shall in each Contracting State enjoy the most favourable treatment accorded by that State to any other international organisation.

(2) No censorship shall be applied to official communications of the Organisation by whatever means of communication.

Article 11

The Contracting States shall take all appropriate measures to facilitate the entry, stay and departure of the employees of the European Patent Office.

Article 12

(1) Representatives of Contracting States, alternate Representatives and their advisers or experts, if any, shall enjoy, while attending meetings of the Administrative Council and of any body established by it, and in the course of their journeys to and from the place of meeting, the following privileges and immunities:

(a) immunity from arrest or detention and from seizure of their personal luggage, except when found committing, attempting to commit, or just having committed an offence;

(b) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words written and spoken, done by them in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by one of the persons referred to above, nor in the case of damage caused by a motor vehicle belonging to or driven by such a person;

5. člen

Blago, ki ga Organizacija uvozi ali izvozi za izvajanje uradnih dejavnosti, je oproščeno carine in dajatev pri uvozu ali izvozu, razen pristojbin ali taks za storitve, in je prosto vseh prepovedi in omejitev pri uvozu ali izvozu.

6. člen

Za blago, ki je kupljeno ali uvoženo za osebne potrebe uslužbencev Evropskega patentnega urada, se ne odobrijo nobene olajšave po 4. in 5. členu.

7. člen

(1) Blago, ki pripada Organizaciji in je bilo pridobljeno ali uvoženo po 4. ali 5. členu, se ne sme prodati ali odstopiti, razen v skladu s pogoji, ki jih določijo države pogodbenice, ki so odobrile oprostitev.

(2) Promet blaga in storitev med različnimi zgradbami Organizacije je prost vsakršnih dajatev ali omejitev; kadar je primerno, države pogodbenice sprejmejo vse potrebne ukrepe za oprostitev ali povrnitev zneska teh dajatev ali ukinitvev omejitev.

8. člen

Pošiljanje publikacij in drugega informacijskega gradiva iz Organizacije ali njej ni omejeno na noben način.

9. člen

Države pogodbenice odobrijo Organizaciji devizne oprostitve, ki so potrebne za izvajanje njenih uradnih dejavnosti.

10. člen

(1) V zvezi z uradnimi sporočili in prenosom vseh dokumentov je Organizacija v vsaki državi pogodbenici deležna najugodnejše obravnave, ki jo ta država nakloni kaki drugi mednarodni organizaciji.

(2) Uradna sporočila Organizacije, prenesena po katerih koli sredstvih sporočanja, se ne cenzurirajo.

11. člen

Države pogodbenice sprejmejo vse ustrezne ukrepe, da bi olajšale vstop, bivanje in izstop uslužbencev Evropskega patentnega urada.

12. člen

(1) Predstavniki držav pogodbenic, njihovi namestniki, svetovalci ali izvedenci imajo med udeležbo na sestankih upravnega sveta in teles, ki jih ta ustanovi, ter med potovanji na kraj sestanka ali z njega, naslednje privilegije in imunitete:

(a) imuniteto pred prijettjem ali pridržanjem in pred zašegom osebne prtljage, razen kadar so zaloteni ob storitvi, poskusu storitve ali takoj po storitvi prestopka;

(b) imuniteto pred sodno pristojnostjo v zvezi z vsem, kar so storili, napisali in rekli med službenim delovanjem, in to tudi po prenehanju svojih nalog; ta imuniteta pa ne velja v primeru prometnega prekrška, ki ga je storila ena od zgoraj omenjenih oseb, niti v primeru škode, povzročene z motornim vozilom, ki pripada taki osebi ali ga je taka oseba upravljala;

(c) inviolability for all their official papers and documents;

(d) the right to use codes and to receive documents or correspondence by special courier or sealed bag;

(e) exemption for themselves and their spouses from all measures restricting entry and from aliens' registration formalities;

(f) the same facilities in the matter of currency and exchange control as are accorded to the representatives of foreign Governments on temporary official missions.

(2) Privileges and immunities are accorded to the persons referred to in paragraph 1, not for their personal advantage but in order to ensure complete independence in the exercise of their functions in connection with the Organisation. Consequently, a Contracting State has the duty to waive the immunity in all cases where, in the opinion of that State, such immunity would impede the course of justice and where it can be waived without prejudicing the purposes for which it was accorded.

Article 13

(1) Subject to the provisions of Article 6, the President of the European Patent Office shall enjoy the privileges and immunities accorded to diplomatic agents under the Vienna Convention on Diplomatic Relations of 18 April 1961.

(2) However, immunity from jurisdiction shall not apply in the case of a motor traffic offence committed by the President of the European Patent Office or damage caused by a motor vehicle belonging to or driven by him.

Article 14

The employees of the European Patent Office:

(a) shall, even after their service has terminated, have immunity from jurisdiction in respect of acts, including words written and spoken, done in the exercise of their functions; this immunity shall not apply, however, in the case of a motor traffic offence committed by an employee of the European Patent Office, nor in the case of damage caused by a motor vehicle belonging to or driven by an employee;

(b) shall be exempt from all obligations in respect of military service;

(c) shall enjoy inviolability for all their official papers and documents;

(d) shall enjoy the same facilities as regards exemption from all measures restricting immigration and governing aliens' registration as are normally accorded to staff members of international organisations, as shall members of their families forming part of their household;

(e) shall enjoy the same privileges in respect of exchange regulations as are normally accorded to the staff members of international organisations;

(f) shall enjoy the same facilities as to repatriation as diplomatic agents in time of international crises, as shall the members of their families forming part of their household;

(g) shall have the right to import duty-free their furniture and personal effects at the time of first taking up their post in the State concerned and the right on the termination of their functions in that State to export free of duty their furniture and personal effects, subject to the conditions considered necessary by the Government of the State in whose territory the right is exercised and with the exception of property acquired in that State which is subject to an export prohibition therein.

(c) nedotakljivost za vse uradne spise in listine;

(d) pravico do uporabe kod in prejema listin ali dopisov po posebnem slu ali v zapečateni torbi;

(e) oprostitev zanje in njihove zakonice glede vseh ukrepov za omejevanje vstopa in vseh formalnosti v zvezi s prijavo tujcev;

(f) enake olajšave v zvezi z devizno kontrolo in deviznimi omejitvami, kot so odobrene predstavnikom tujih vlad med začasnimi uradnimi obiski.

(2) Privilegiji in imunitete se osebam iz prvega odstavka ne odobrijo zaradi njihove osebne koristi, temveč zato da bi se jim zagotovila popolna neodvisnost pri opravljanju njihovih nalog v zvezi z Organizacijo. Zato je država pogodbenica dolžna odpovedati imuniteto v vseh primerih, v katerih bi po njenem mnenju ovirala uresničevanje načela zakonitosti in jo je mogoče odvzeti brez škode za namen, za katerega je bila odobrena.

13. člen

(1) Ob upoštevanju 6. člena predsednik Evropskega patentnega urada uživa privilegije in imunitete, odobrene diplomatskim predstavnikom po Dunajski pogodbi o diplomatskih odnosih z dne 18. aprila 1961.

(2) Vendar imuniteta pred sodno pristojnostjo ne velja v primeru prometnega prekrška, ki ga je storil predsednik Evropskega patentnega urada, ali v primeru škode, povzročene z motornim vozilom, ki mu pripada ali ga je on upravljal.

14. člen

Uslužbenci Evropskega patentnega urada:

(a) imajo tudi po prenehanju svoje službe imuniteto pred sodno pristojnostjo v zvezi z vsem, kar so storili, napisali in rekli med službenim delovanjem; ta imuniteta pa ne velja v primeru prometnega prekrška, ki ga je storil uslužbenec Evropskega patentnega urada, niti v primeru škode, povzročene z motornim vozilom, ki pripada uslužbencu ali ga je on upravljal;

(b) so oproščeni vseh vojaških obveznosti;

(c) uživajo nedotakljivost vseh svojih uradnih spisov in listin;

(d) uživajo skupaj s člani svojih družin, ki živijo z njimi, enake olajšave v zvezi z oprostitvami glede vseh ukrepov za omejevanje priseljevanja in urejanje prijave tujcev, kot so navadno odobrene osebjem mednarodnih organizacij;

(e) uživajo enake privilegije glede deviznih predpisov, kot so navadno odobreni osebjem mednarodnih organizacij;

(f) uživajo skupaj s člani svojih družin, ki živijo z njimi, enake olajšave glede vračanja v domovino kot diplomatski predstavniki v času mednarodnih kriz;

(g) imajo pravico uvoziti brez carine svoje pohištvo in osebne premičnine, ko prvič nastopijo službo v zadevni državi, in pravico izvoziti brez carine svoje pohištvo in osebne premičnine, ko prenehajo službovati v tej državi, po pogojih, ki se zdijo potrebni vladi države, na ozemlju katere se ta pravica uresničuje, z izjemo imetja, pridobljenega v tej državi, katerega izvoz je v njej prepovedan.

Article 15

Experts performing functions on behalf of, or carrying out missions for, the Organisation shall enjoy the following privileges and immunities, to the extent that they are necessary for the carrying out of their functions, including during journeys made in carrying out their functions and in the course of such missions:

(a) immunity from jurisdiction in respect of acts done by them in the exercise of their functions, including words written or spoken, except in the case of a motor traffic offence committed by an expert or in the case of damage caused by a motor vehicle belonging to or driven by him; experts shall continue to enjoy this immunity after they have ceased to be employed by the Organisation;

(b) inviolability for all their official papers and documents;

(c) the exchange facilities necessary for the transfer of their remuneration.

Article 16

(1) The persons referred to in Articles 13 and 14 shall be subject to a tax for the benefit of the Organisation on salaries and emoluments paid by the Organisation, subject to the conditions and rules laid down by the Administrative Council within a period of one year from the date of the entry into force of the Convention. From the date on which this tax is applied, such salaries and emoluments shall be exempt from national income tax. The Contracting States may, however, take into account the salaries and emoluments thus exempt when assessing the amount of tax to be applied to income from other sources.

(2) Paragraph 1 shall not apply to pensions and annuities paid by the Organisation to the former employees of the European Patent Office.

Article 17

The Administrative Council shall decide the categories of employees to whom the provisions of Article 14, in whole or in part, and Article 16 shall apply and the categories of experts to whom the provisions of Article 15 shall apply. The names, titles and addresses of the employees and experts included in such categories shall be communicated from time to time to the Contracting States.

Article 18

In the event of the Organisation establishing its own social security scheme, the Organisation and the employees of the European Patent Office shall be exempt from all compulsory contributions to national social security schemes, subject to the agreements made with the Contracting States in accordance with the provisions of Article 25.

Article 19

(1) The privileges and immunities provided for in this Protocol are not designed to give to employees of the European Patent Office or experts performing functions for or on behalf of the Organisation personal advantage. They are provided solely to ensure, in all circumstances, the unimpeded functioning of the Organisation and the complete independence of the persons to whom they are accorded.

(2) The President of the European Patent Office has the duty to waive immunity where he considers that such immunity prevents the normal course of justice and that it is possible to dispense with such immunity without prejudicing the interests of the Organisation. The Administrative Council may waive immunity of the President for the same reasons.

15. člen

Izvedenci, ki opravljajo dejavnosti v imenu Organizacije ali zanjo opravljajo naloge, uživajo naslednje privilegije in imunitete, če so ti potrebni za opravljanje njihovih dejavnosti, vključno s potovanji, opravljenimi med izvajanjem njihovih dejavnosti in med potekom takih nalog:

(a) imuniteto pred sodno pristojnostjo v zvezi z vsem, kar so storili, napisali ali rekli med službenim delovanjem, razen v primeru prometnega prekrška, ki ga je storil izvedenec, ali v primeru škode, povzročene z motornim vozilom, ki mu pripada ali ga je on upravljal; izvedenci uživajo to imuniteto tudi, ko niso več zaposleni pri Organizaciji;

(b) nedotakljivost vse svojih uradnih spisov in listin;

(c) devizne olajšave, potrebne za prenos njihovih honorarjev.

16. člen

(1) Osebe iz 13. in 14. člena morajo v korist Organizacije plačati davek na plače in honorarje, ki jih je izplačala Organizacija, ob upoštevanju pogojev in pravil, ki jih določi upravni svet v enem letu od začetka veljavnosti te konvencije. Od datuma, ko začne veljati ta davek, so take plače in honorarji oproščeni domačega davka na dohodek. Vendar lahko države pogodbenice upoštevajo tako oproščene plače in honorarje pri odmeri davka, ki ga je treba plačati na dohodek iz drugih virov.

(2) Prvi odstavek se ne uporablja za pokojnine in rente, ki jih Organizacija plačuje nekdanjim uslužbencem Evropskega patentnega urada.

17. člen

Upravni svet določi kategorije uslužbencev, za katere se uporabljajo določbe 14. člena v celoti ali delno in 16. člena, in kategorije izvedencev, za katere se uporabljajo določbe 15. člena. Imena, nazivi in naslovi uslužbencev in izvedencev, zajetih v teh kategorijah, se občasno sporočajo državam pogodbenicam.

18. člen

Če Organizacija ustanovi svoj sistem socialnega zavarovanja, so Organizacija in uslužbenci Evropskega patentnega urada oproščeni vseh obveznih prispevkov, ki jih zahtevajo domači sistemi socialnega zavarovanja, ob upoštevanju sporazumov, sklenjenih z državami pogodbenicami v skladu z določbami 25. člena.

19. člen

(1) Privilegiji in imunitete, predvideni v tem protokolu, niso uvedeni zaradi osebne koristi uslužbencev Evropskega patentnega urada ali izvedencev, ki v imenu Organizacije ali zanjo opravljajo dejavnosti. Njihov edini namen je zagotoviti v vseh okoliščinah nemoteno delovanje oseb, ki so jim odobreni.

(2) Predsednik Evropskega patentnega urada se mora odpovedati imuniteti, kadar meni, da ta ovira normalno ureničevanje pravičnosti in da se ji je mogoče odpovedati brez škode za interese Organizacije. Upravni svet lahko iz enakih razlogov odpove imuniteto, ki je bila odobrena predsedniku.

Article 20

(1) The Organisation shall co-operate at all times with the competent authorities of the Contracting States in order to facilitate the proper administration of justice, to ensure the observance of police regulations and regulations concerning public health, labour inspection or other similar national legislation, and to prevent any abuse of the privileges, immunities and facilities provided for in this Protocol.

(2) The procedure of co-operation mentioned in paragraph 1 may be laid down in the complementary agreements referred to in Article 25.

Article 21

Each Contracting State retains the right to take all precautions necessary in the interests of its security.

Article 22

No Contracting State is obliged to extend the privileges and immunities referred to in Article 12, Article 13, Article 14, sub-paragraphs (b), (e) and (g) and Article 15, subparagraph (c) to:

- (a) its own nationals;
- (b) any person who at the time of taking up his functions with the Organisation has his permanent residence in that State and is not an employee of any other intergovernmental organisation whose staff is incorporated into the Organisation.

Article 23

(1) Any Contracting State may submit to an international arbitration tribunal any dispute concerning the Organisation or an employee of the European Patent Office or an expert performing functions for or on its behalf, in so far as the Organisation or the employees and experts have claimed a privilege or an immunity under this Protocol in circumstances where that immunity has not been waived.

(2) If a Contracting State intends to submit a dispute to arbitration, it shall notify the Chairman of the Administrative Council, who shall forthwith inform each Contracting State of such notification.

(3) The procedure laid down in paragraph 1 of this Article shall not apply to disputes between the Organisation and the employees or experts in respect of the Service Regulations or conditions of employment or, with regard to the employees, the Pension Scheme Regulations.

(4) No appeal shall lie against the award of the arbitration tribunal, which shall be final; it shall be binding on the parties. In case of dispute concerning the import or scope of the award, it shall be incumbent upon the arbitration tribunal to interpret it on request by either party.

Article 24

(1) The arbitration tribunal referred to in Article 23 shall consist of three members, one arbitrator nominated by the State or States party to the arbitration, one arbitrator nominated by the Administrative Council and a third arbitrator, who shall be the chairman, nominated by the said two arbitrators.

(2) The arbitrators shall be nominated from a panel comprising no more than six arbitrators appointed by each Contracting State and six arbitrators appointed by the Administrative Council. This panel shall be established as soon as possible after the Protocol enters into force and shall be revised each time this proves necessary.

20. člen

(1) Organizacija vselej sodeluje s pristojnimi organi držav pogodbenic, da bi olajšala dobro delovanje pravosodja, zagotovila upoštevanje policijskih predpisov in predpisov v zvezi s splošnim zdravstvenim varstvom ter varstvom pri delu ali druge podobne državne zakonodaje in preprečila vsako zlorabo privilegijev, imunitet in olajšav, predvidenih v tem protokolu.

(2) Potek sodelovanja, omenjenega v prvem odstavku, se lahko določi z dodatnimi sporazumi iz 25. člena.

21. člen

Vsaka država pogodbenica zadrži pravico do sprejetja vseh varnostnih ukrepov, potrebnih zaradi njene varnosti.

22. člen

Nobena država pogodbenica ni zavezana, da privilegije in imunitete iz 12. in 13. člena, pododstavkov (b), (e) in (g) 14. člena in pododstavka (c) 15. člena razširi na:

- (a) svoje državljane;
- (b) osebe, ki imajo v času, ko so začele službovati pri Organizaciji, stalno prebivališče v tej državi in niso zaposlene pri kaki drugi medvladni organizaciji, katere osebje je vključeno v Organizacijo.

23. člen

(1) Vsaka država pogodbenica lahko predloži mednarodnemu razsodišču vsak spor, ki se nanaša na Organizacijo, uslužbenca Evropskega patentnega urada ali izvedenca, ki v imenu Organizacije ali zanjo opravljajo dejavnosti, če so Organizacija ali uslužbenci in izvedenci zahtevali privilegij ali imuniteto po tem protokolu v okoliščinah, v katerih ta imuniteta ni bila odpovedana.

(2) Če namerava država pogodbenica predložiti spor razsodišču, o tem uradno obvesti predsednika upravnega sveta, ki to takoj sporoči vsaki državi pogodbenici.

(3) Postopek, določen v prvem odstavku tega člena, ne velja za spore med Organizacijo in uslužbenci ali izvedenci v zvezi s službenim pravilnikom ali pogoji zaposlovanja ali v zvezi s pravilnikom o pokojninah za uslužbenca.

(4) Odločitev razsodišča je končna in zoper njo ni pritožbe; za stranke je zavezujoča. V sporu glede pomena ali obsega razsodbe je dolžnost razsodišča, da ga na zahtevo katere koli stranke razloži.

24. člen

(1) Razsodišče iz 23. člena sestavljajo trije člani: razsodnik, ki ga imenuje država ali države, ki so udeležene v postopku, razsodnik, ki ga imenuje upravni svet, in tretji razsodnik, ki je predsedujoči in ga imenujeta prva dva razsodnika.

(2) Razsodniki se imenujejo s seznama, na katerem je največ šest razsodnikov, ki jih je imenovala vsaka država pogodbenica, in šest razsodnikov, ki jih je imenoval upravni svet. Seznam se sestavi čim prej po začetku veljavnosti protokola in se pregleda in popravi vsakič, ko je to potrebno.

(3) If, within three months from the date of the notification referred to in Article 23, paragraph 2, either party fails to make the nomination referred to in paragraph 1 above, the choice of the arbitrator shall, on request of the other party, be made by the President of the International Court of Justice from the persons included in the said panel. This shall also apply, when so requested by either party, if within one month from the date of appointment of the second arbitrator, the first two arbitrators are unable to agree on the nomination of the third arbitrator. However, if, in these two cases, the President of the International Court of Justice is prevented from making the choice, or if he is a national of one of the States parties to the dispute, the Vice-President of the International Court of Justice shall make the aforementioned appointments, provided that he himself is not a national of one of the States parties to the dispute; if such is the case, the member of the International Court of Justice who is not a national of one of the States parties to the dispute and who has been chosen by the President or Vice-President shall make the appointments. A national of the State applying for arbitration may not be chosen to fill the post of the arbitrator whose appointment devolves on the Administrative Council nor may a person included in the panel and appointed by the Administrative Council be chosen to fill the post of an arbitrator whose appointment devolves on the State which is the claimant. Nor may a person of either of these categories be chosen as chairman of the Tribunal.

(4) The arbitration tribunal shall draw up its own rules of procedure.

Article 25

The Organisation may, on a decision of the Administrative Council, conclude with one or more Contracting States complementary agreements to give effect to the provisions of this Protocol as regards such State or States, and other arrangements to ensure the efficient functioning of the Organisation and the safeguarding of its interests.

(3) Če v treh mesecih od datuma uradnega obvestila iz drugega odstavka 23. člena ena od strank ne opravi imenovanja iz prvega odstavka tega člena, izbere razsodnika na zahtevo druge stranke predsednik Mednarodnega sodišča med osebami z omenjenega seznama. To velja tudi tedaj, če tako zahteva ena od strank, če se v enem mesecu od datuma imenovanja drugega razsodnika prva dva razsodnika ne moreta dogovoriti o imenovanju tretjega razsodnika. Če je v omenjenih dveh primerih predsedniku Mednarodnega sodišča onemogočeno opraviti izbiro ali če je državljan ene od držav strank v sporu, opravi omenjena imenovanja podpredsednik Mednarodnega sodišča, če tudi sam ni državljan ene od držav strank v sporu; v takem primeru opravi imenovanja član Mednarodnega sodišča, ki ni državljan ene od držav strank v sporu in ga je izbral predsednik ali podpredsednik. Državljan države, ki prosi za razsojanje, ne sme biti izbran za razsodnika, ki ga imenuje upravni svet, prav tako pa ne sme biti izbrana za razsodnika, ki ga imenuje država pritožnica, oseba, ki je na seznamu in jo je imenoval upravni svet. Osebe iz obeh teh skupin tudi ne morejo biti izbrane za predsedovanje razsodišču.

(4) Razsodišče sestavi svoj poslovnik.

25. člen

Organizacija lahko na podlagi odločitve upravnega sveta sklene z eno ali več državami pogodbenicami dopolnilne sporazume, da omogoči uveljavitev določb tega protokola za to državo ali države, in druge dogovore, s katerimi zagotovi učinkovito delovanje Organizacije in zavaruje svoje interese.

AGREEMENT

on the application of Article 65 of the Convention on the Grant of European Patents

The States parties to this Agreement,
IN THEIR CAPACITY as Contracting States to the Convention on the Grant of European Patents (European Patent Convention) of 5 October 1973,

REAFFIRMING their desire to strengthen co-operation between the States of Europe in respect of the protection of inventions,

HAVING REGARD to Article 65 of the European Patent Convention,

RECOGNISING the importance of the objective to reduce the costs relating to the translation of European patents,

STRESSING the need for widespread adherence to that objective,

DETERMINED to contribute effectively to such cost reduction,

HAVE AGREED ON THE FOLLOWING PROVISIONS:

SPORAZUM

o uporabi 65. člena Konvencije o podeljevanju evropskih patentov

Države pogodbenice tega sporazuma so se
KOT države pogodbenice Konvencije o podeljevanju evropskih patentov (Evropske patentne konvencije) z dne 5. oktobra 1973

OB PONOVNIM POTRĐITVI želje po okrepitvi sodelovanja med evropskimi državami na področju varstva izumov,

OB UPOŠTEVANJU 65. člena Evropske patentne konvencije,

OB PRIZNAVANJU pomembnosti cilja, da se znižajo stroški, povezani s prevodom evropskih patentov,

OB POUČENJANJU potrebe po splošni zavezanosti temu cilju,

ODLOČENE učinkovito prispevati k takemu znižanju stroškov,

DOGOVORILE O NASLEDNJIH DOLOČBAH:

Article 1*Dispensation with translation requirements*

(1) Any State party to this Agreement having an official language in common with one of the official languages of the European Patent Office shall dispense with the translation requirements provided for in Article 65, paragraph 1, of the European Patent Convention.

(2) Any State party to this Agreement having no official language in common with one of the official languages of the European Patent Office shall dispense with the translation requirements provided for in Article 65, paragraph 1, of the European Patent Convention, if the European patent has been granted in the official language of the European Patent Office prescribed by that State, or translated into that language and supplied under the conditions provided for in Article 65, paragraph 1, of the European Patent Convention.

(3) The States referred to in paragraph 2 shall continue to have the right to require that a translation of the claims into one of their official languages be supplied under the conditions provided for in Article 65, paragraph 1, of the European Patent Convention.

(4) Nothing in this Agreement shall be construed as restricting the right of the States parties to this Agreement to dispense with any translation requirement or to apply more liberal translation requirements than those referred to in paragraphs 2 and 3.

Article 2*Translations in case of dispute*

Nothing in this Agreement shall be construed as restricting the right of the States parties to this Agreement to prescribe that, in the case of a dispute relating to a European patent, the patent proprietor, at his own expense,

(a) shall supply, at the request of an alleged infringer, a full translation into an official language of the State in which the alleged infringement took place,

(b) shall supply, at the request of the competent court or quasi judicial authority in the course of legal proceedings, a full translation into an official language of the State concerned.

Article 3*Signature - Ratification*

(1) This Agreement shall be open for signature by any Contracting State to the European Patent Convention until 30 June 2001.

(2) This Agreement shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the Federal Republic of Germany.

Article 4*Accession*

This Agreement shall, on expiry of the term for signature mentioned in Article 3, paragraph 1, be open to accession by any Contracting State to the European Patent Convention and any State which is entitled to accede to that Convention. Instruments of accession shall be deposited with the Government of the Federal Republic of Germany.

Article 5*Prohibition of reservations*

No State party to this Agreement may make reservations thereto.

1. člen*Odpoved zahtevam glede prevoda*

(1) Vsaka država pogodbenica tega sporazuma, katere eden od uradnih jezikov je tudi eden od uradnih jezikov Evropskega patentnega urada, se odpove zahtevam glede prevoda, predvidenim v prvem odstavku 65. člena Evropske patentne konvencije.

(2) Vsaka država pogodbenica tega sporazuma, ki ni ma uradnega jezika, ki je eden od uradnih jezikov Evropskega patentnega urada, se odpove zahtevam glede prevoda, predvidenim v prvem odstavku 65. člena Evropske patentne konvencije, če je bil evropski patent podeljen v uradnem jeziku Evropskega patentnega urada, ki ga ta država predpisuje, ali je bil v ta jezik preveden in predložen po pogojih iz prvega odstavka 65. člena Evropske patentne konvencije.

(3) Države iz drugega odstavka imajo še naprej pravico zahtevati, da se po pogojih iz prvega odstavka 65. člena Evropske patentne konvencije predloži prevod patentnih zahtevkov v enem od njihovih uradnih jezikov.

(4) Nič v tem sporazumu se ne sme razlagati, kot da omejuje pravico držav pogodbenic tega sporazuma, da se odpovejo kateri koli zahtevi glede prevoda ali da uporabijo manj stroge zahteve glede prevoda, kot so tiste iz drugega in tretjega odstavka.

2. člen*Prevodi v primeru spora*

Nič v tem sporazumu se ne sme razlagati, kot da omejuje pravico držav pogodbenic tega sporazuma, da v primeru spora, povezanega z evropskim patentom, predpišejo, da imetnik patenta na svoje stroške

(a) na zahtevo domnevnega kršitelja predloži popoln prevod v uradnem jeziku države, v kateri se je domnevna kršitev zgodila,

(b) na zahtevo pristojnega sodišča ali sodišču podobnega organa v okviru sodnega postopka predloži popoln prevod v uradnem jeziku zadevne države.

3. člen*Podpis - Ratifikacija*

(1) Ta sporazum je na voljo za podpis vsaki državi pogodbenici Evropske patentne konvencije do 30. junija 2001.

(2) Ta sporazum je treba ratificirati. Listine o ratifikaciji se deponirajo pri vladi Zvezne republike Nemčije.

4. člen*Pristop*

Po poteku roka za podpis, omenjenega v prvem odstavku 3. člena, lahko k temu sporazumu pristopi vsaka država pogodbenica Evropske patentne konvencije in vsaka država, ki ima pravico pristopiti k tej konvenciji. Listine o pristopu se deponirajo pri vladi Zvezne republike Nemčije.

5. člen*Prepoved pridrzkov*

Nobena država pogodbenica tega sporazuma k njemu ne sme dati pridrzkov.

Article 6*Entry into force*

(1) This Agreement shall enter into force on the first day of the fourth month after the deposit of the last instrument of ratification or accession by eight Contracting States to the European Patent Convention, including the three States in which the most European patents took effect in 1999.

(2) Any ratification or accession after the entry into force of this Agreement shall take effect on the first day of the fourth month after the deposit of the instrument of ratification or accession.

Article 7*Duration of the Agreement*

This Agreement shall be concluded for an unlimited duration.

Article 8*Denunciation*

Any State party to this Agreement may denounce it at any time once it has been in force for three years. Notification of denunciation shall be given to the Government of the Federal Republic of Germany. The denunciation shall take effect one year after the date of receipt of such notification. No rights acquired pursuant to this Agreement before the denunciation took effect shall thereby be impaired.

Article 9*Scope*

This Agreement shall apply to European patents in respect of which the mention of grant was published in the European Patent Bulletin after the Agreement entered into force for the State concerned.

Article 10*Languages of the Agreement*

This Agreement, drawn up in a single original in the English, French and German languages shall be deposited with the Government of the Federal Republic of Germany, the three texts being equally authentic.

Article 11*Transmissions and notifications*

(1) The Government of the Federal Republic of Germany shall draw up certified true copies of this Agreement and shall transmit them to the Governments of all signatory or acceding States.

(2) The Government of the Federal Republic of Germany shall notify to the Governments of the States referred to in paragraph 1:

- (a) any signature;
- (b) the deposit of any instrument of ratification or accession;
- (c) the date of entry into force of this Agreement;
- (d) any denunciation received pursuant to Article 8 and the date on which it will take effect.

(3) The Government of the Federal Republic of Germany shall register this Agreement with the Secretariat of the United Nations.

In WITNESS WHEREOF, the Plenipotentiaries authorised thereto, having presented their Full Powers, found to be in good and due form, have signed this Agreement.

Done at London on 17 October 2000, in one original, in English, French and German, each text being equally authentic.

6. člen*Začetek veljavnosti*

(1) Ta sporazum začne veljati prvega dne četrtega meseca po deponiranju zadnje listine o ratifikaciji ali pristopu osmih držav pogodbenic Evropske patentne konvencije, vključno s tremi državami, v katerih je večina evropskih patentov začela veljati v letu 1999.

(2) Vsaka ratifikacija ali pristop po začetku veljavnosti tega sporazuma začne veljati prvega dne četrtega meseca po deponiranju listine o ratifikaciji ali pristopu.

7. člen*Trajanje sporazuma*

Ta sporazum se sklene za neomejen čas.

8. člen*Odpoved*

Vsaka država pogodbenica tega sporazuma se mu lahko odpove kadar koli, potem ko je že veljal tri leta. Uradno obvestilo o odpovedi se pošlje vladi Zvezne republike Nemčije. Odpoved začne veljati eno leto po datumu prejema takega uradnega obvestila. Pravice, ki so bile pridobljene s tem sporazumom, preden je odpoved začela veljati, se s tem ne zmanjšajo.

9. člen*Obseg*

Ta sporazum se uporablja za evropske patente, za katere je bila v Evropskem patentnem biltenu objavljena omemba o podelitvi, potem ko je sporazum začel veljati za zadevno državo.

10. člen*Jeziki sporazuma*

Ta sporazum, ki je sestavljen v enem izvorniku v angleškem, francoskem in nemškem jeziku, se hrani pri vladi Zvezne republike Nemčije, pri čemer so vsa tri besedila enako verodostojna.

11. člen*Pošiljanje in uradna obvestila*

(1) Vlada Zvezne republike Nemčije sestavi overjene kopije tega sporazuma in jih pošlje vladam držav, ki so podpisale sporazum ali so k njemu pristopile.

(2) Vlada Zvezne republike Nemčije uradno obvesti vlade držav iz prvega odstavka o:

- (a) vsakem podpisu;
- (b) deponiranju vsake listine o ratifikaciji ali pristopu;
- (c) datumu začetka veljavnosti tega sporazuma;
- (d) vsaki odpovedi, prejeti na podlagi 8. člena, in datumu, na katerega ta začne veljati.

(3) Vlada Zvezne republike Nemčije da ta sporazum vpisati v register pri sekretariatu Združenih narodov.

V potrditev navedenega so imenovani pooblaščenca po predložitvi svojih pooblastil v pravilni in predpisani obliki podpisali ta sporazum.

Sestavljeno v Londonu sedemnajstega oktobra leta dva tisoč.

**ACT REVISING THE CONVENTION
ON THE GRANT OF EUROPEAN PATENTS
(EUROPEAN PATENT CONVENTION)
OF 5 OCTOBER 1973,
LAST REVISED AT 17 DECEMBER 1991**

(Munich, 29 November 2000)

PREAMBLE

THE CONTRACTING STATES TO THE EUROPEAN PATENT CONVENTION,

CONSIDERING that the co-operation of the countries of Europe on the basis of the European Patent Convention and the single procedure for the grant of patents thereby established renders a significant contribution to the legal and economic integration of Europe,

WISHING to promote innovation and economic growth in Europe still more effectively by laying foundations for the further development of the European patent system,

DESIRING, in the light of the increasingly international character of the patent system, to adapt the European Patent Convention to the technological and legal developments which have occurred since it was concluded,

HAVE AGREED AS FOLLOWS:

**ARTICLE 1
AMENDMENT OF THE EUROPEAN PATENT
CONVENTION**

The European Patent Convention shall be amended as follows:

1. The following new Article 4a shall be inserted after Article 4:

Article 4a

Conference of ministers of the Contracting States

A conference of ministers of the Contracting States responsible for patent matters shall meet at least every five years to discuss issues pertaining to the Organisation and to the European patent system.

2. Article 11 shall be amended to read as follows:

Article 11

Appointment of senior employees

(1) The President of the European Patent Office shall be appointed by the Administrative Council.

(2) The Vice-Presidents shall be appointed by the Administrative Council after the President of the European Patent Office has been consulted.

(3) The members, including the Chairmen, of the Boards of Appeal and of the Enlarged Board of Appeal shall be appointed by the Administrative Council on a proposal from the President of the European Patent Office. They may be re-appointed by the Administrative Council after the President of the European Patent Office has been consulted.

(4) The Administrative Council shall exercise disciplinary authority over the employees referred to in paragraphs 1 to 3.

**AKT, S KATERIM SE REVIDIRA KONVENCIJA
O PODELJEVANJU EVROPSKIH PATENTOV
(EVROPSKA PATENTNA KONVENCIJA)
Z DNE 5. OKTOBRA 1973,
ZADNJIČ REVIDIRANA 17. DECEMBRA 1991,**

z dne 29. novembra 2000

UVOD

DRŽAVE POGODBENICE EVROPSKE PATENTNE KONVENCIJE SO SE

GLEDE NA TO, da je sodelovanje evropskih držav na podlagi Evropske patentne konvencije in z njo uvedenega enega samega postopka podeljevanja patentov pomemben prispevek k pravnemu in gospodarskemu povezovanju Evrope,

V ŽELJI, da bi z ustvarjanjem možnosti za nadaljnji razvoj evropskega patentnega sistema še učinkoviteje pospeševale inovacije in gospodarsko rast v Evropi,

V ŽELJI, da bi z ozirom na čedalje bolj mednarodno naravo patentnega sistema prilagodile Evropsko patentno konvencijo tehnološkemu in pravnemu razvoju, do katerega je prišlo po njeni sklenitvi,

SPORAZUMELE O NASLEDNJEM:

**1. ČLEN
SPREMEMBA EVROPSKE PATENTNE
KONVENCIJE**

Evropska patentna konvencija se spremeni, kot sledi:

1. Po 4. členu se vstavi novi 4.a člen, ki se glasi:

4.a člen

Konferenca ministrov držav pogodbenic

Konferenca ministrov držav pogodbenic, ki je pristojna za patentne zadeve, se sestane vsaj vsakih pet let, da obravnava vprašanja v zvezi z Organizacijo in evropskim patentnim sistemom.

2. Spremeni se 11. člen in se glasi:

11. člen

Imenovanje vodilnih uslužbencev

(1) Predsednika Evropskega patentnega urada imenuje upravni svet.

(2) Podpredsednike imenuje upravni svet po posvetu s predsednikom Evropskega patentnega urada.

(3) Člane in predsedujoče pritožbenih senatov in razširjenega pritožbenega senata imenuje upravni svet na predlog predsednika Evropskega patentnega urada. Upravni svet jih lahko ponovno imenuje po posvetu s predsednikom Evropskega patentnega urada.

(4) Upravni svet disciplinsko ukrepa zoper uslužbenca iz prvega do tretjega odstavka.

(5) The Administrative Council, after consulting the President of the European Patent Office, may also appoint as members of the Enlarged Board of Appeal legally qualified members of the national courts or quasi-judicial authorities of the Contracting States, who may continue their judicial activities at the national level. They shall be appointed for a term of three years and may be reappointed.

3. Article 14 shall be amended to read as follows:

Article 14

Languages of the European Patent Office, European patent applications and other documents

(1) The official languages of the European Patent Office shall be English, French and German.

(2) A European patent application shall be filed in one of the official languages or, if filed in any other language, translated into one of the official languages in accordance with the Implementing Regulations. Throughout the proceedings before the European Patent Office, such translation may be brought into conformity with the application as filed. If a required translation is not filed in due time, the application shall be deemed to be withdrawn.

(3) The official language of the European Patent Office in which the European patent application is filed or into which it is translated shall be used as the language of the proceedings in all proceedings before the European Patent Office, unless otherwise provided in the Implementing Regulations.

(4) Natural or legal persons having their residence or principal place of business within a Contracting State having a language other than English, French or German as an official language, and nationals of that State who are resident abroad, may file documents which have to be filed within a time limit in an official language of that State. They shall however file a translation in an official language of the European Patent Office in accordance with the Implementing Regulations. If any document, other than those documents making up the European patent application, is not filed in the prescribed language, or if any required translation is not filed in due time, the document shall be deemed not to have been filed.

(5) European patent applications shall be published in the language of the proceedings.

(6) Specifications of European patents shall be published in the language of the proceedings and shall include a translation of the claims in the two other official languages of the European Patent Office.

(7) There shall be published in the three official languages of the European Patent Office:

- (a) the European Patent Bulletin;
- (b) the Official Journal of the European Patent Office.

(8) Entries in the European Patent Register shall be made in the three official languages of the European Patent Office. In cases of doubt, the entry in the language of the proceedings shall be authentic.

4. Article 16 shall be amended to read as follows:

Article 16

Receiving Section

The Receiving Section shall be responsible for the examination on filing and the examination as to formal requirements of European patent applications.

(5) Upravni svet lahko po posvetu s predsednikom Evropskega patentnega urada kot člane razširjenega pritožbenega senata imenuje tudi pravnike, ki so člani državnih sodišč ali sodišču podobnih organov držav pogodbenic in lahko nadaljujejo svoje sodne dejavnosti na državni ravni. Imenujejo se za obdobje treh let z možnostjo ponovnega imenovanja.

3. Spremeni se 14. člen in se glasi:

14. člen

Jeziki Evropskega patentnega urada, evropskih patentnih prijav in drugih dokumentov

(1) Uradni jeziki Evropskega patentnega urada so angleški, francoski in nemški.

(2) Evropska patentna prijava se vložijo v enem od uradnih jezikov, če pa se vložijo v katerem drugem jeziku, mora biti prevedena v enega od uradnih jezikov v skladu s pravilnikom o izvajanju. Tak prevod se lahko uskladi s prijavo, kot je bila vložena, vse dokler traja postopek pri Evropskem patentnem uradu. Če zahtevani prevod ni pravočasno vložen, se prijava šteje za umaknjeno.

(3) Uradni jezik Evropskega patentnega urada, v katerem je evropska patentna prijava vložena ali je vanj prevedena, se uporablja kot jezik postopka v vseh postopkih pri Evropskem patentnem uradu, razen če ni v pravilniku o izvajanju drugače določeno.

(4) Fizične ali pravne osebe, ki imajo stalno prebivališče ali sedež podjetja v državi pogodbenici, kjer angleški, francoski ali nemški jezik ni uradni jezik, in državljani te države, ki imajo stalno prebivališče v tujini, lahko vložijo dokumente, ki jih je treba vložiti v roku, v uradnem jeziku te države. Vendar morajo v skladu s pravilnikom o izvajanju vložiti prevod v enem od uradnih jezikov Evropskega patentnega urada. Če dokument, ki ni sestavni del evropske patentne prijave, ni vložen v predpisanem jeziku ali če zahtevani prevod ni vložen pravočasno, se šteje, da dokument ni bil vložen.

(5) Evropske patentne prijave se objavijo v jeziku postopka.

(6) Evropski patentni spisi se objavijo v jeziku postopka in vsebujejo prevod patentnih zahtevkov v drugih dveh uradnih jezikih Evropskega patentnega urada.

(7) V treh uradnih jezikih Evropskega patentnega urada se objavlja:

- (a) Evropski patentni bilten,
- (b) Uradno glasilo Evropskega patentnega urada.

(8) Vpisi v evropski patentni register so v treh uradnih jezikih Evropskega patentnega urada. Če obstaja dvom, je verodostojen vpis v jeziku postopka.

4. Spremeni se 16. člen in se glasi:

16. člen

Sprejemna pisarna

Sprejemna pisarna je odgovorna za preizkus ob vložitvi in za preizkus evropskih patentnih prijav glede formalnih zahtev.

5. Article 17 shall be amended to read as follows:*Article 17*

Search Divisions

The Search Divisions shall be responsible for drawing up European search reports.

6. Article 18 shall be amended to read as follows:*Article 18*

Examining Divisions

(1) The Examining Divisions shall be responsible for the examination of European patent applications.

(2) An Examining Division shall consist of three technical examiners. However, the examination of a European patent application prior to a decision on it shall, as a general rule, be entrusted to one member of the Division. Oral proceedings shall be before the Examining Division itself. If the Examining Division considers that the nature of the decision so requires, it shall be enlarged by the addition of a legally qualified examiner. In the event of parity of votes, the vote of the Chairman of the Division shall be decisive.

7. Article 21 shall be amended to read as follows:*Article 21*

Boards of Appeal

(1) The Boards of Appeal shall be responsible for the examination of appeals from the decisions of the Receiving Section, Examining Divisions, Opposition Divisions and of the Legal Division.

(2) For appeals from a decision of the Receiving Section or the Legal Division, a Board of Appeal shall consist of three legally qualified members.

(3) For appeals from a decision of an Examining Division, a Board of Appeal shall consist of:

(a) two technically qualified members and one legally qualified member, when the decision concerns the refusal of a European patent application or the grant, limitation or revocation of a European patent and was taken by an Examining Division consisting of less than four members;

(b) three technically qualified members and two legally qualified members, when the decision was taken by an Examining Division consisting of four members or when the Board of Appeal considers that the nature of the appeal so requires;

(c) three legally qualified members in all other cases.

(4) For appeals from a decision of an Opposition Division, a Board of Appeal shall consist of:

(a) two technically qualified members and one legally qualified member, when the decision was taken by an Opposition Division consisting of three members;

(b) three technically qualified members and two legally qualified members, when the decision was taken by an Opposition Division consisting of four members or when the Board of Appeal considers that the nature of the appeal so requires.

5. Spremeni se 17. člen in se glasi:*17. člen*

Oddelki za poizvedbe

Oddelki za poizvedbe so odgovorni za sestavo evropskih poročil o poizvedbi.

6. Spremeni se 18. člen in se glasi:*18. člen*

Oddelki za preizkuse

(1) Oddelki za preizkuse so odgovorni za preizkus evropskih patentnih prijav.

(2) Oddelek za preizkuse sestavljajo trije preizkuševalci tehniki. Vendar je preizkus evropske patentne prijave pred končno odločitvijo o njej praviloma zaupan enemu preizkuševalcu v oddelku. Ustni postopek se opravi pri samem oddelku za preizkuse. Oddelek za preizkuse se razširi s preizkuševalcem pravnikom, če meni, da to zahteva narava odločitve. Če je število glasov za in proti enako, je odločilen glas predsedujočega v oddelku.

7. Spremeni se 21. člen in se glasi:*21. člen*

Pritožbeni senati

(1) Pritožbeni senati so odgovorni za preizkus pritožb zoper odločitve sprejemne pisarne, oddelkov za preizkuse, oddelkov za ugovore in pravnega oddelka.

(2) Za pritožbe zoper odločitve sprejemne pisarne ali pravnega oddelka sestavljajo pritožbeni senat trije člani pravniki.

(3) Za pritožbe zoper odločitve oddelka za preizkuse sestavljajo pritožbeni senat:

(a) dva člana tehnika in član pravnik, kadar se odločitev nanaša na zavrnitev evropske patentne prijave ali na podelitev, omejitev ali razveljavitev evropskega patenta in jo je sprejel oddelek za preizkuse, ki so ga sestavljali manj kot štiri člani;

(b) trije člani tehniki in dva člana pravnika, kadar je odločitev sprejel oddelek za preizkuse, ki so ga sestavljali štiri člani, ali kadar pritožbeni senat meni, da to zahteva narava pritožbe;

(c) trije člani pravniki v vseh drugih primerih.

(4) Za pritožbe zoper odločitve oddelka za ugovore sestavljajo pritožbeni senat:

(a) dva člana tehnika in član pravnik, kadar je odločitev sprejel oddelek za ugovore, ki so ga sestavljali trije člani;

(b) trije člani tehniki in dva člana pravnika, kadar je odločitev sprejel oddelek za ugovore, ki so ga sestavljali štiri člani, ali kadar pritožbeni senat meni, da to zahteva narava pritožbe.

8. Article 22 shall be amended to read as follows:*Article 22*

Enlarged Board of Appeal

(1) The Enlarged Board of Appeal shall be responsible for:

(a) deciding points of law referred to it by Boards of Appeal;

(b) giving opinions on points of law referred to it by the President of the European Patent Office under Article 112;

(c) deciding on petitions for review of decisions of the Boards of Appeal under Article 112a.

(2) In proceedings under paragraph 1(a) and (b), the Enlarged Board of Appeal shall consist of five legally qualified and two technically qualified members. In proceedings under paragraph 1(c), the Enlarged Board of Appeal shall consist of three or five members as laid down in the Implementing Regulations. In all proceedings a legally qualified member shall be the Chairman.

9. Article 23 shall be amended to read as follows:*Article 23*

Independence of the members of the Boards

(1) The members of the Enlarged Board of Appeal and of the Boards of Appeal shall be appointed for a term of five years and may not be removed from office during this term, except if there are serious grounds for such removal and if the Administrative Council, on a proposal from the Enlarged Board of Appeal, takes a decision to this effect. Notwithstanding sentence 1, the term of office of members of the Boards shall end if they resign or are retired in accordance with the Service Regulations for permanent employees of the European Patent Office.

(2) The members of the Boards may not be members of the Receiving Section, Examining Divisions, Opposition Divisions or of the Legal Division.

(3) In their decisions the members of the Boards shall not be bound by any instructions and shall comply only with the provisions of this Convention.

(4) The Rules of Procedure of the Boards of Appeal and the Enlarged Board of Appeal shall be adopted in accordance with the Implementing Regulations. They shall be subject to the approval of the Administrative Council.

10. Article 33 shall be amended to read as follows:*Article 33*

Competence of the Administrative Council in certain cases

(1) The Administrative Council shall be competent to amend the following provisions:

(a) the time limits laid down in this Convention;

(b) Parts II to VIII and Part X of this Convention, to bring them into line with an international treaty relating to patents or European Community legislation relating to patents;

(c) the Implementing Regulations.

(2) The Administrative Council shall be competent, in conformity with this Convention, to adopt or amend the following provisions:

(a) the Financial Regulations;

(b) the Service Regulations for permanent employees and the conditions of employment of other employees of the European Patent Office, the salary scales of the said permanent and other employees, and also the nature and rules for the grant of any supplementary benefits;

8. Spremeni se 22. člen in se glasi:*22. člen*

Razširjeni pritožbeni senat

(1) Razširjeni pritožbeni senat je odgovoren za:

(a) odločanje o pravnih vprašanjih, ki so mu jih predložili pritožbeni senati;

(b) dajanje mnenj o pravnih vprašanjih, ki mu jih je predložil predsednik Evropskega patentnega urada na podlagi 112. člena;

(c) odločanje o vlogah za presojo odločitev pritožbenih senatov na podlagi 112.a člena.

(2) V postopkih po pododstavkih (a) in (b) prvega odstavka ima razširjeni pritožbeni senat pet članov pravnikov in dva člana tehnika. V postopku po pododstavku (c) prvega odstavka ima razširjeni pritožbeni senat trije ali pet članov, kot je določeno v pravilniku o izvajanju. V vseh postopkih je predsedujoči eden od članov pravnikov.

9. Spremeni se 23. člen in se glasi:*23. člen*

Neodvisnost članov senatov

(1) Člani razširjenega pritožbenega senata in pritožbenih senatov se imenujejo za dobo petih let in v tem obdobju ne morejo biti odstavljene s te funkcije, razen če ni resnih razlogov za odstavitev in če tako odloči upravni svet na predlog razširjenega pritožbenega senata. Ne glede na prvi stavek se mandat članov teh senatov konča, če odstopijo ali se upokojijo v skladu s pravili službovanja za stalno zaposlene Evropskega patentnega urada.

(2) Člani senatov ne morejo biti člani sprejemne pisarne, oddelkov za preizkuse, oddelkov za ugovore ali pravne oddelka.

(3) Člani senatov pri odločanju niso zavezani z nobenimi navodili in se ravnaajo le po določbah te konvencije.

(4) Poslovniki pritožbenih senatov in razširjenega pritožbenega senata se sprejemajo v skladu s pravilnikom o izvajanju. Odobriti jih mora upravni svet.

10. Spremeni se 33. člen in se glasi:*33. člen*

Pristojnost upravnega sveta v nekaterih primerih

(1) Upravni svet je pristojen, da spreminja:

(a) roke, določene v tej konvenciji;

(b) II. do VIII. del in X. del te konvencije, da jih uskladi z mednarodno pogodbo, ki se nanaša na patente, ali z zakonodajo Evropske skupnosti, ki se nanaša na patente;

(c) pravilnik o izvajanju.

(2) Upravni svet je v skladu s to konvencijo pristojen, da sprejema ali spreminja:

(a) pravilnik o finančnem poslovanju;

(b) pravila službovanja za stalno zaposlene in pogoje zaposlovanja za druge uslužbenke Evropskega patentnega urada, plačne lestvice stalno zaposlenih in drugih uslužbencev ter tudi vrsto dodatnih ugodnosti in pravila za njihovo dodelitev;

(c) the Pension Scheme Regulations and any appropriate increases in existing pensions to correspond to increases in salaries;

(d) the Rules relating to Fees;

(e) its Rules of Procedure.

(3) Notwithstanding Article 18, paragraph 2, the Administrative Council shall be competent to decide, in the light of experience, that in certain categories of cases Examining Divisions shall consist of one technical examiner. Such decision may be rescinded.

(4) The Administrative Council shall be competent to authorise the President of the European Patent Office to negotiate and, with its approval, to conclude agreements on behalf of the European Patent Organisation with States, with intergovernmental organisations and with documentation centres set up by virtue of agreements with such organisations.

(5) The Administrative Council may not take a decision under paragraph 1(b):

– concerning an international treaty, before the entry into force of that treaty;

– concerning European Community legislation, before its entry into force or, where that legislation provides for a period for its implementation, before the expiry of that period.

11. Article 35 shall be amended to read as follows:

Article 35

Voting rules

(1) The Administrative Council shall take its decisions other than those referred to in paragraphs 2 and 3 by a simple majority of the Contracting States represented and voting.

(2) A majority of three quarters of the votes of the Contracting States represented and voting shall be required for the decisions which the Administrative Council is empowered to take under Article 7, Article 11, paragraph 1, Article 33, paragraphs 1(a) and (c), and 2 to 4, Article 39, paragraph 1, Article 40, paragraphs 2 and 4, Article 46, Article 134a, Article 149a, paragraph 2, Article 152, Article 153, paragraph 7, Article 166 and Article 172.

(3) Unanimity of the Contracting States voting shall be required for the decisions which the Administrative Council is empowered to take under Article 33, paragraph 1(b). The Administrative Council shall take such decisions only if all the Contracting States are represented. A decision taken on the basis of Article 33, paragraph 1(b), shall not take effect if a Contracting State declares, within twelve months of the date of the decision, that it does not wish to be bound by that decision.

(4) Abstentions shall not be considered as votes.

12. Article 37 shall be amended to read as follows:

Article 37

Budgetary funding

The budget of the Organisation shall be financed:

(a) by the Organisation's own resources;

(b) by payments made by the Contracting States in respect of renewal fees for European patents levied in these States;

(c) where necessary, by special financial contributions made by the Contracting States;

(d) where appropriate, by the revenue provided for in Article 146;

(c) pravilnik o pokojninah in vsa ustrezna povečanja obstoječih pokojnin zaradi usklajevanja s povečanjem plač;

(d) pravilnika o pristojbinah;

(e) svoj poslovnik.

(3) Ne glede na drugi odstavek 18. člena je upravni svet pristojen za odločitve, da glede na izkušnje v nekaterih primerih oddelke za preizkuse sestavlja le en preizkuševalec tehnik. Taka odločitev se lahko prekliche.

(4) Upravni svet je pristojen, da pooblasti predsednika Evropskega patentnega urada, da se pogaja in z njegovim soglasjem sklepa sporazume v imenu Evropske patentne organizacije z državami, medvladnimi organizacijami in z dokumentacijskimi centri, ustanovljenimi na podlagi sporazumov s takimi organizacijami.

(5) Upravni svet ne more sprejemati odločitev po pododstavku (b) prvega odstavka glede:

– mednarodne pogodbe, preden ta začne veljati;

– zakonodaje Evropske skupnosti, preden začne veljati ali pred potekom obdobja za njeno uveljavitev, če zakonodaja tako obdobje predvideva.

11. Spremeni se 35. člen in se glasi:

35. člen

Pravila glasovanja

(1) Upravni svet sprejema odločitve z navadno večino glasov držav pogodbenic, ki so zastopane in glasujejo, razen odločitev iz drugega in tretjega odstavka.

(2) Za odločitve, za katere je upravni svet pooblaščen po 7. členu, prvem odstavku 11. člena, pododstavkih (a) in (c) prvega odstavka in drugem do četrtem odstavku 33. člena, prvem odstavku 39. člena, drugem in četrtem odstavku 40. člena, 46. in 134.a členu, drugem odstavku 149.a člena, 152. členu, sedmem odstavku 153. člena, 166. in 172. členu, je potrebna tričetrtinska večina glasov držav pogodbenic, ki so zastopane in glasujejo.

(3) Za odločitve, za katere je upravni svet pooblaščen po pododstavku (b) prvega odstavka 33. člena, je potrebna soglasnost držav pogodbenic, ki glasujejo. Upravni svet sprejema take odločitve le, če so zastopane vse države pogodbenice. Odločitev, sprejeta na podlagi pododstavka (b) prvega odstavka 33. člena, ne začne veljati, če država pogodbenica v dvanajstih mesecih od datuma odločitve izjavi, da ne želi, da jo ta odločitev zavezuje.

(4) Vzdržani glasovi se ne upoštevajo.

12. Spremeni se 37. člen in se glasi:

37. člen

Zagotavljanje sredstev proračuna

Proračun Organizacije se financira:

(a) iz lastnih virov Organizacije;

(b) iz plačil držav pogodbenic glede na pristojbine za podaljšanje veljavnosti evropskih patentov, pobrane v teh državah;

(c) iz posebnih finančnih prispevkov držav pogodbenic, kadar je treba;

(d) iz prihodka, predvidenega po 146. členu, kadar je primerno;

(e) where appropriate, and for tangible assets only, by third-party borrowings secured on land or buildings;

(f) where appropriate, by third-party funding for specific projects.

13. Article 38 shall be amended to read as follows:

Article 38

The Organisation's own resources

The Organisation's own resources shall comprise:

(a) all income from fees and other sources and also the reserves of the Organisation;

(b) the resources of the Pension Reserve Fund, which shall be treated as a special class of asset of the Organisation designed to lend support to the Organisation's pension scheme by providing the appropriate reserves.

14. Article 42 shall be amended to read as follows:

Article 42

Budget

(1) The budget of the Organisation shall be balanced. It shall be drawn up in accordance with the generally accepted accounting principles laid down in the Financial Regulations. If necessary, there may be amending or supplementary budgets.

(2) The budget shall be drawn up in the unit of account fixed in the Financial Regulations.

15. Article 50 shall be amended to read as follows:

Article 50

Financial Regulations

The Financial Regulations shall in particular establish:

(a) the procedure relating to the establishment and implementation of the budget and for the rendering and auditing of accounts;

(b) the method and procedure whereby the payments and contributions provided for in Article 37 and the advances provided for in Article 41 are to be made available to the Organisation by the Contracting States;

(c) the rules concerning the responsibilities of authorising and accounting officers and the arrangements for their supervision;

(d) the rates of interest provided for in Articles 39, 40 and 47;

(e) the method of calculating the contributions payable by virtue of Article 146;

(f) the composition of and duties to be assigned to a Budget and Finance Committee which should be set up by the Administrative Council;

(g) the generally accepted accounting principles on which the budget and the annual financial statements shall be based.

16. Article 51 shall be amended to read as follows:

Article 51

Fees

(1) The European Patent Office may levy fees for any official task or procedure carried out under this Convention.

(e) iz posojil pri tretjih osebah, zavarovanih z zemljišči ali stavbami, vendar le za opredmetena sredstva in kadar je primerno;

(f) iz sredstev tretjih oseb za določene projekte, kadar je primerno.

13. Spremeni se 38. člen in se glasi:

38. člen

Lastni viri Organizacije

Lastni viri Organizacije obsegajo:

(a) ves dohodek iz pristojbin in drugih virov in tudi rezervna sredstva Organizacije;

(b) sredstva pokojninskega rezervnega sklada, ki se obravnavajo kot posebna kategorija premoženja Organizacije in naj bi bila z zagotavljanjem ustreznih rezerv v podporo pokojninskemu sistemu Organizacije.

14. Spremeni se 42. člen in se glasi:

42. člen

Proračun

(1) Proračun Organizacije mora biti uravnotežen. Sestavljen je v skladu s splošno sprejetimi računovodskimi načeli, določenimi v pravilniku o finančnem poslovanju. Po potrebi se lahko spremeni ali dopolni.

(2) Proračun mora biti sestavljen v obračunski enoti, določeni v pravilniku o finančnem poslovanju.

15. Spremeni se 50. člen in se glasi:

50. člen

Pravilnik o finančnem poslovanju

Pravilnik o finančnem poslovanju določa predvsem:

(a) postopek v zvezi z določanjem in izvrševanjem proračuna ter predložitvijo računov in revizijo računovodstva;

(b) način in postopek, po katerem morajo države pogodbenice dati Organizaciji na voljo plačila in prispevke iz 37. člena ter predplačila iz 41. člena;

(c) pravila o odgovornosti odredbodajalcev in računovodij ter ureditev njihovega nadzora;

(d) obrestne mere, predvidene v 39., 40. in 47. členu;

(e) način obračunavanja prispevkov, ki se plačujejo po 146. členu;

(f) sestavo in naloge proračunskega in finančnega odbora, ki ga ustanovi upravni svet;

(g) splošno sprejeta računovodska načela, na katerih temeljijo proračun in letni računovodski izkazi.

16. Spremeni se 51. člen in se glasi:

51. člen

Pristojbine

(1) Evropski patentni urad lahko uvede pristojbine za katero koli uradno nalogo ali postopek, opravljen na podlagi te konvencije.

(2) Time limits for the payment of fees other than those fixed by this Convention shall be laid down in the Implementing Regulations.

(3) Where the Implementing Regulations provide that a fee shall be paid, they shall also lay down the consequences of failure to pay such fee in due time.

(4) The Rules relating to Fees shall determine in particular the amounts of the fees and the ways in which they are to be paid.

17. Article 52 shall be amended to read as follows:

Article 52

Patentable inventions

(1) European patents shall be granted for any inventions, in all fields of technology, provided that they are new, involve an inventive step and are susceptible of industrial application.

(2) The following in particular shall not be regarded as inventions within the meaning of paragraph 1:

(a) discoveries, scientific theories and mathematical methods;

(b) aesthetic creations;

(c) schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;

(d) presentations of information.

(3) Paragraph 2 shall exclude the patentability of the subject-matter or activities referred to therein only to the extent to which a European patent application or European patent relates to such subject-matter or activities as such.

18. Article 53 shall be amended to read as follows:

Article 53

Exceptions to patentability

European patents shall not be granted in respect of:

(a) inventions the commercial exploitation of which would be contrary to "ordre public" or morality, provided that such exploitation shall not be deemed to be so contrary merely because it is prohibited by law or regulation in some or all of the Contracting States;

(b) plant or animal varieties or essentially biological processes for the production of plants or animals; this provision shall not apply to microbiological processes or the products thereof;

(c) methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body; this provision shall not apply to products, in particular substances or compositions, for use in any of these methods.

19. Article 54 shall be amended to read as follows:

Article 54

Novelty

(1) An invention shall be considered to be new if it does not form part of the state of the art.

(2) The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, before the date of filing of the European patent application.

(2) Rok za plačilo pristojbin, ki niso določeni s to konvencijo, so predpisani v pravilniku o izvajanju.

(3) Kadar je v pravilniku o izvajanju predvideno plačilo pristojbine, morajo biti določene tudi posledice nepravilnega plačila.

(4) Pravilnik o pristojbinah določa predvsem zneske pristojbin in načine njihovega plačevanja.

17. Spremeni se 52. člen in se glasi:

52. člen

Izumi, ki jih je mogoče patentirati

(1) Evropski patenti se podelijo za katere koli izume z vseh področij tehnike, če so novi, na inventivni ravni in industrijsko uporabljivi.

(2) Za izume po prvem odstavku se zlasti ne štejejo:

(a) odkritja, znanstvene teorije in matematične metode;

(b) estetske stvaritve;

(c) načrti, pravila in metode za umske dejavnosti, igre ali poslovne dejavnosti ter računalniški programi;

(d) predstavitve informacij.

(3) Drugi odstavek izključuje možnost patentiranja v njem navedenih vsebin ali dejavnosti le v takem obsegu, v kakršnem se evropska patentna prijava ali evropski patent nanaša na take vsebine ali dejavnosti kot take.

18. Spremeni se 53. člen in se glasi:

53. člen

Izjeme glede možnosti patentiranja

Evropski patenti se ne podelijo za:

(a) izume, katerih gospodarsko izkoriščanje bi bilo v nasprotju z javnim redom ali moralo, vendar se izkoriščanje ne šteje za tako le zaradi tega, ker je z zakonom ali uredbo prepovedano v nekaterih ali vseh državah pogodbenicah;

(b) rastlinske sorte ali živalske pasme ali postopke vzgoje rastlin ali živali, ki so v svojem bistvu biološki; ta določba ne velja za mikrobiološke postopke ali njihove proizvode;

(c) kirurške ali terapevtske metode zdravljenja človeškega ali živalskega telesa in diagnostične metode, uporabljene na človeškem ali živalskem telesu; ta določba ne velja za izdelke, zlasti za snovi ali sestavke, ki se uporabljajo pri kateri od teh metod.

19. Spremeni se 54. člen in se glasi:

54. člen

Novost

(1) Izum se šteje za novega, če ni del stanja tehnike.

(2) Šteje se, da stanje tehnike obsega vse tisto, kar je bilo s pisnim ali ustnim opisom, z uporabo ali kako drugače dostopno javnosti pred datumom vložitve evropske patentne prijave.

(3) Additionally, the content of European patent applications as filed, of which the dates of filing are prior to the date referred to in paragraph 2 and which were published on or after that date, shall be considered as comprised in the state of the art.

(4) Paragraphs 2 and 3 shall not exclude the patentability of any substance or composition, comprised in the state of the art, for use in a method referred to in Article 53(c), provided that its use for any such method is not comprised in the state of the art.

(5) Paragraphs 2 and 3 shall also not exclude the patentability of any substance or composition referred to in paragraph 4 for any specific use in any method referred to in Article 53(c), provided that such use is not comprised in the state of the art.

20. Article 60 shall be amended to read as follows:

Article 60

Right to a European patent

(1) The right to a European patent shall belong to the inventor or his successor in title. If the inventor is an employee, the right to a European patent shall be determined in accordance with the law of the State in which the employee is mainly employed; if the State in which the employee is mainly employed cannot be determined, the law to be applied shall be that of the State in which the employer has his place of business to which the employee is attached.

(2) If two or more persons have made an invention independently of each other, the right to a European patent therefor shall belong to the person whose European patent application has the earliest date of filing, provided this first application has been published.

(3) For the purposes of proceedings before the European Patent Office, the applicant shall be deemed to be entitled to exercise the right to a European patent.

21. Article 61 shall be amended to read as follows:

Article 61

European patent applications filed by non-entitled persons

(1) If by a final decision it is adjudged that a person other than the applicant is entitled to the grant of the European patent, that person may, in accordance with the Implementing Regulations,

(a) prosecute the European patent application as his own application in place of the applicant,

(b) file a new European patent application in respect of the same invention, or

(c) request that the European patent application be refused.

(2) Article 76, paragraph 1, shall apply *mutatis mutandis* to a new European patent application filed under paragraph 1(b).

(3) Šteje se, da je s stanjem tehnike obsežena tudi vsebina evropskih patentnih prijav, kot so bile vložene in katerih datumi vložitve so pred datumom iz drugega odstavka in ki so bile objavljene na ta datum ali po njem.

(4) Drugi in tretji odstavek ne izključujeta možnosti patentiranja snovi ali sestavkov, obseženih s stanjem tehnike, za uporabo pri metodi iz pododstavka (c) 53. člena, če njihova uporaba pri kateri koli taki metodi ni obsežena s stanjem tehnike.

(5) Drugi in tretji odstavek tudi ne izključujeta možnosti patentiranja snovi ali sestavkov iz četrtega odstavka za določeno uporabo pri metodah iz pododstavka (c) 53. člena, če taka uporaba ni obsežena s stanjem tehnike.

20. Spremeni se 60. člen in se glasi:

60. člen

Pravica do evropskega patenta

(1) Pravica do evropskega patenta pripada izumitelju ali njegovemu pravnemu nasledniku. Če je izumitelj zaposlen, je pravica do evropskega patenta določena v skladu s pravom države, v kateri je pretežno zaposlen; če države, v kateri je uslužbenec pretežno zaposlen, ni mogoče določiti, se uporablja pravo države, v kateri ima delodajalec sedež podjetja, ki mu zaposleni pripada.

(2) Če izum ustvarita dve ali več oseb neodvisno ena od druge, pripada pravica do evropskega patenta osebi, katere evropska patentna prijava ima najzgodnejši datum vložitve, pod pogojem da je bila ta prva prijava objavljena.

(3) Za namene postopka pri Evropskem patentnem uradu se šteje, da je prijavitelj upravičen uveljavljati pravico do evropskega patenta.

21. Spremeni se 61. člen in se glasi:

61. člen

Evropske patentne prijave, ki jih vložijo neupravičene osebe

(1) Če je s končno odločitvijo osebi, ki ni prijavitelj, priznana upravičenost do podelitve evropskega patenta, lahko ta oseba v skladu s pravilnikom o izvajanju:

(a) namesto prijavitelja nadaljuje postopek v zvezi z evropsko patentno prijavo, kot da je njena,

(b) vložijo novo evropsko patentno prijavo za isti izum ali

(c) zahteva zavrnitev evropske patentne prijave.

(2) Prvi odstavek 76. člena se smiselno uporablja za novo evropsko patentno prijavo, vloženo po pododstavku (b) prvega odstavka.

22. Article 65 shall be amended to read as follows:*Article 65*

Translation of the European patent

(1) Any Contracting State may, if the European patent as granted, amended or limited by the European Patent Office is not drawn up in one of its official languages, prescribe that the proprietor of the patent shall supply to its central industrial property office a translation of the patent as granted, amended or limited in one of its official languages at his option or, where that State has prescribed the use of one specific official language, in that language. The period for supplying the translation shall end three months after the date on which the mention of the grant, maintenance in amended form or limitation of the European patent is published in the European Patent Bulletin, unless the State concerned prescribes a longer period.

(2) Any Contracting State which has adopted provisions pursuant to paragraph 1 may prescribe that the proprietor of the patent must pay all or part of the costs of publication of such translation within a period laid down by that State.

(3) Any Contracting State may prescribe that in the event of failure to observe the provisions adopted in accordance with paragraphs 1 and 2, the European patent shall be deemed to be void ab initio in that State.

23. Article 67 shall be amended to read as follows:*Article 67*

Rights conferred by a European patent application after publication

(1) A European patent application shall, from the date of its publication, provisionally confer upon the applicant such protection as is conferred by Article 64, in the Contracting States designated in the application.

(2) Any Contracting State may prescribe that a European patent application shall not confer such protection as is conferred by Article 64. However, the protection attached to the publication of the European patent application may not be less than that which the laws of the State concerned attach to the compulsory publication of unexamined national patent applications. In any event, every State shall ensure at least that, from the date of publication of a European patent application, the applicant can claim compensation reasonable in the circumstances from any person who has used the invention in the said State in circumstances where that person would be liable under national law for infringement of a national patent.

(3) Any Contracting State which does not have as an official language the language of the proceedings may prescribe that provisional protection in accordance with paragraphs 1 and 2 above shall not be effective until such time as a translation of the claims in one of its official languages at the option of the applicant or, where that State has prescribed the use of one specific official language, in that language:

(a) has been made available to the public in the manner prescribed by national law, or

(b) has been communicated to the person using the invention in the said State.

(4) The European patent application shall be deemed never to have had the effects set out in paragraphs 1 and 2 above when it has been withdrawn, deemed to be withdrawn or finally refused. The same shall apply in respect of the effects of the European patent application in a Contracting State the designation of which is withdrawn or deemed to be withdrawn.

22. Spremeni se 65. člen in se glasi:*65. člen*

Prevod evropskega patenta

(1) Če evropski patent, kot ga je podelil, spremenil ali omejil Evropski patentni urad, ni sestavljen v enem od uradnih jezikov države pogodbenice, lahko ta država določi, da mora imetnik patenta dostaviti njenemu osrednjemu uradu za industrijsko lastnino prevod patenta, kot je bil podeljen, spremenjen ali omejen, v enem od njenih uradnih jezikov, ki ga sam izbere, ali v določenem uradnem jeziku, če je ta država predpisala njegovo rabo. Rok za dostavo prevoda poteče v treh mesecih od datuma, ko je v Evropskem patentnem biltenu objavljena omemba podelitve, vzdrževanja v spremenjeni obliki ali omejitve evropskega patenta, razen če zadevna država ne predpiše daljšega roka.

(2) Vsaka država pogodbenica, ki je sprejela določbe v skladu s prvim odstavkom, lahko predpiše, da mora imetnik patenta v roku, ki ga določi ta država, plačati vse ali del stroškov objave takega prevoda.

(3) Če se ne spoštujejo določbe, sprejete v skladu s prvim in drugim odstavkom, lahko vsaka država pogodbenica predpiše, da se evropski patent v tej državi od samega začetka šteje za neveljavnega.

23. Spremeni se 67. člen in se glasi:*67. člen*

Pravice iz evropske patentne prijave po objavi

(1) Evropska patentna prijava od datuma objave začasno daje prijavitelju v državah pogodbenicah, imenovanih v prijavi, tako varstvo, kakršno mu je dano po 64. členu.

(2) Vsaka država pogodbenica lahko predpiše, da evropska patentna prijava ne daje takega varstva, kot ga daje 64. člen. Vendar varstvo, vezano na objavo evropske patentne prijave, ne more biti manjše od tistega, ki ga pravo zadevne države veže na obvezno objavo nepreizkušenih državnih patentnih prijav. V vsakem primeru mora vsaka država zagotoviti vsaj to, da lahko prijavitelj od datuma objave evropske patentne prijave zahteva okoliščinam primerno nadomestilo od vsakogar, ki je v tej državi izkoriščal izum v okoliščinah, v katerih bi bil po državnem pravu odgovoren za kršitev državnega patenta.

(3) Vsaka država pogodbenica, katere uradni jezik ni jezik postopka, lahko predpiše, da začasno varstvo iz prvega in drugega odstavka ne začne veljati, dokler prevod patentnih zahtevkov v enega od njenih uradnih jezikov, ki ga prijavitelj sam izbere, ali v določeni uradni jezik, če je ta država predpisala njegovo rabo:

(a) ni postal dostopen javnosti na način, ki ga predpisuje državno pravo, ali

(b) ni bil poslan osebi, ki v tej državi izkorišča izum.

(4) Šteje se, da evropska patentna prijava nikoli ni imela učinkov, določenih v prvem in drugem odstavku tega člena, če je bila umaknjena, če se šteje za umaknjeno ali je dokončno zavrnjena. Enako velja za učinke evropske patentne prijave v državi pogodbenici, katere imenovanje je umaknjeno ali se šteje za umaknjeno.

24. Article 68 shall be amended to read as follows:*Article 68*

Effect of revocation or limitation of the European patent

The European patent application and the resulting patent shall be deemed not to have had, from the outset, the effects specified in Articles 64 and 67, to the extent that the patent has been revoked or limited in opposition, limitation or revocation proceedings.

25. Article 69 shall be amended to read as follows:*Article 69*

Extent of protection

(1) The extent of the protection conferred by a European patent or a European patent application shall be determined by the claims. Nevertheless, the description and drawings shall be used to interpret the claims.

(2) For the period up to grant of the European patent, the extent of the protection conferred by the European patent application shall be determined by the claims contained in the application as published. However, the European patent as granted or as amended in opposition, limitation or revocation proceedings shall determine retroactively the protection conferred by the European patent application, in so far as such protection is not thereby extended.

26. Article 70 shall be amended to read as follows:*Article 70*

Authentic text of a European patent application or European patent

(1) The text of a European patent application or a European patent in the language of the proceedings shall be the authentic text in any proceedings before the European Patent Office and in any Contracting State.

(2) If, however, the European patent application has been filed in a language which is not an official language of the European Patent Office, that text shall be the application as filed within the meaning of this Convention.

(3) Any Contracting State may prescribe that a translation, as provided for in this Convention, in an official language of that State, shall in that State be regarded as authentic, except for revocation proceedings, in the event of the European patent application or European patent in the language of the translation conferring protection which is narrower than that conferred by it in the language of the proceedings.

(4) Any Contracting State which adopts a provision under paragraph 3:

(a) must allow the applicant for or proprietor of the patent to file a corrected translation of the European patent application or European patent. Such corrected translation shall not have any legal effect until any conditions established by the Contracting State under Article 65, paragraph 2, and Article 67, paragraph 3, have been complied with *mutatis mutandis*;

(b) may prescribe that any person who, in that State, in good faith is using or has made effective and serious preparations for using an invention the use of which would not constitute infringement of the application or patent in the original translation may, after the corrected translation takes effect, continue such use in the course of his business or for the needs thereof without payment.

24. Spremeni se 68. člen in se glasi:*68. člen*

Učinek razveljavitve ali omejitve evropskega patenta

Šteje se, da evropska patentna prijava in iz nje izhajajoči patent nista imela že od začetka učinkov, določenih v 64. in 67. členu, in to v obsegu, v kakršnem je bil patent razveljaven ali omejen v postopku ugovora, omejitve ali razveljavitve.

25. Spremeni se 69. člen in se glasi:*69. člen*

Obseg varstva

(1) Obseg varstva, ki ga daje evropski patent ali evropska patentna prijava, določajo patentni zahtevki. Za razlago patentnih zahtevkov se uporabljajo opis in skice.

(2) Za obdobje do podelitve evropskega patenta se obseg varstva, ki ga daje evropska patentna prijava, določi s patentnimi zahtevki, ki jih vsebuje prijava, kot je bila objavljena. Vendar evropski patent, kot je bil podeljen ali kot je bil spremenjen v postopku ugovora, omejitve ali razveljavitve, določa z učinkom za nazaj obseg varstva, ki ga daje evropska patentna prijava, če tako varstvo ni razširjeno.

26. Spremeni se 70. člen in se glasi:*70. člen*

Verodostojno besedilo evropske patentne prijave ali evropskega patenta

(1) Besedilo evropske patentne prijave ali evropskega patenta v jeziku postopka je verodostojno besedilo za vse postopke pri Evropskem patentnem uradu in v vsaki državi pogodbenici.

(2) Če pa je bila evropska patentna prijava vložena v jeziku, ki ni uradni jezik Evropskega patentnega urada, je to besedilo prijava, kot je bila vložena v smislu te konvencije.

(3) Vsaka država pogodbenica lahko predpiše, da prevod v uradni jezik te države, kot je določeno s to konvencijo, v tej državi razen za postopek razveljavitve velja za verodostojnega, če zagotavlja evropska patentna prijava ali evropski patent v jeziku prevoda ožje varstvo, kot ga zagotavlja prijava ali patent v jeziku postopka.

(4) Vsaka država pogodbenica, ki sprejme določbo po tretjem odstavku:

(a) mora dovoliti prijavitelju ali imetniku patenta, da vložijo popravljen prevod evropske patentne prijave ali evropskega patenta. Popravljeni prevod nima nobenega pravnega učinka, dokler niso smiselno izpolnjeni vsi pogoji, ki jih določi država pogodbenica na podlagi drugega odstavka 65. člena in tretjega odstavka 67. člena;

(b) lahko predpiše, da sme po začetku veljavnosti popravljenega prevoda vsakdo, ki v tej državi v dobri veri uporablja izum ali je opravil dejanske in resne priprave za njegovo uporabo, ki ne pomeni kršitve prijave ali patenta v izvirnem prevodu, brezplačno nadaljevati s tako uporabo v svojem poslovanju ali za potrebe poslovanja.

27. Article 75 shall be amended to read as follows:*Article 75*

Filing of a European patent application

(1) A European patent application may be filed:

(a) at the European Patent Office, or

(b) if the law of a Contracting State so permits, and subject to Article 76, paragraph 1, at the central industrial property office or other competent authority of that State. Any application filed in this way shall have the same effect as if it had been filed on the same date at the European Patent Office.

(2) Paragraph 1 shall not preclude the application of legislative or regulatory provisions which, in any Contracting State:

(a) govern inventions which, owing to the nature of their subject-matter, may not be communicated abroad without the prior authorisation of the competent authorities of that State, or

(b) prescribe that any application is to be filed initially with a national authority or make direct filing with another authority subject to prior authorisation.

28. Article 76 shall be amended to read as follows:*Article 76*

European divisional applications

(1) Any European divisional application shall be filed directly with the European Patent Office in accordance with the Implementing Regulations. It may be filed only in respect of subject-matter which does not extend beyond the content of the earlier application as filed; in so far as this requirement is complied with, the divisional application shall be deemed to have been filed on the date of filing of the earlier application and shall enjoy any right of priority.

(2) All the Contracting States designated in the earlier application at the time of filing of a European divisional application shall be deemed to be designated in the divisional application.

29. Article 77 shall be amended to read as follows:*Article 77*

Forwarding of European patent applications

(1) The central industrial property office of a Contracting State shall forward to the European Patent Office any European patent application filed with it or any other competent authority in that State, in accordance with the Implementing Regulations.

(2) Any European patent application the subject of which has been made secret shall not be forwarded to the European Patent Office.

(3) Any European patent application not forwarded to the European Patent Office in due time shall be deemed to be withdrawn.

30. Article 78 shall be amended to read as follows:*Article 78*

Requirements of a European patent application

(1) A European patent application shall contain:

(a) a request for the grant of a European patent;

(b) a description of the invention;

(c) one or more claims;

(d) any drawings referred to in the description or the claims;

27. Spremeni se 75. člen in se glasi:*75. člen*

Vložitev evropske patentne prijave

(1) Evropska patentna prijava se lahko vložijo:

(a) pri Evropskem patentnem uradu ali

(b) pri osrednjem uradu za industrijsko lastnino ali drugem pristojnem organu države pogodbenice, če to dopušča njeno pravo in ob upoštevanju prvega odstavka 76. člena; tako vložena prijava ima enak učinek, kot če bi bila vložena na isti datum pri Evropskem patentnem uradu.

(2) Prvi odstavek ne izključuje uporabe zakonskih ali podzakonskih določb, ki v državi pogodbenici:

(a) veljajo za izume, ki zaradi narave svoje vsebine ne smejo biti sporočeni tujini brez poprejšnjega pooblastila pristojnih organov te države, ali

(b) določajo, da je treba vsako prijavo najprej vložiti pri državnem organu ali s poprejšnjim soglasjem neposredno pri drugem organu.

28. Spremeni se 76. člen in se glasi:*76. člen*

Evropske izločene prijave

(1) Evropska izločena prijava se vložijo neposredno pri Evropskem patentnem uradu v skladu s pravilnikom o izvajanju. Vložena je lahko samo za predmet, ki ne presega vsebine prvotne prijave, kot je bila vložena; če je ta pogoj izpolnjen, se šteje, da je bila izločena prijava vložena na datum vložitve prvotne prijave in ima prednostno pravico.

(2) Šteje se, da so vse države pogodbenice, ki so ob vložitvi evropske izločene prijave imenovane v prvotni prijavi, imenovane v evropski izločeni prijavi.

29. Spremeni se 77. člen in se glasi:*77. člen*

Pošiljanje evropskih patentnih prijav

(1) Osrednji urad za industrijsko lastnino države pogodbenice v skladu s pravilnikom o izvajanju pošlje Evropskemu patentnemu uradu vsako evropsko patentno prijavo, vloženo pri njem ali katerem koli drugem pristojnem organu v tej državi.

(2) Evropska patentna prijava, katere predmet je bil opredeljen kot tajen, se ne pošlje Evropskemu patentnemu uradu.

(3) Evropske patentne prijave, ki niso pravočasno poslane Evropskemu patentnemu uradu, se štejejo za umaknjene.

30. Spremeni se 78. člen in se glasi:*78. člen*

Pogoji, ki jih mora izpolnjevati evropska patentna prijava

(1) Evropska patentna prijava mora vsebovati:

(a) zahtevo za podelitev evropskega patenta,

(b) opis izuma,

(c) enega ali več patentnih zahtevkov,

(d) skice, omenjene v opisu ali patentnih zahtevkih,

(e) an abstract,
and satisfy the conditions laid down in the Implementing Regulations.

(2) A European patent application shall be subject to the payment of the filing fee and the search fee. If the filing fee or the search fee is not paid in due time, the application shall be deemed to be withdrawn.

31. Article 79 shall be amended to read as follows:

Article 79

Designation of Contracting States

(1) All the Contracting States party to this Convention at the time of filing of a European patent application shall be deemed to be designated in the request for grant of a European patent.

(2) The designation of a Contracting State may be subject to the payment of a designation fee.

(3) The designation of a Contracting State may be withdrawn at any time up to the grant of the European patent.

32. Article 80 shall be amended to read as follows:

Article 80

Date of filing

The date of filing of a European patent application shall be the date on which the requirements laid down in the Implementing Regulations are fulfilled.

33. Article 86 shall be amended to read as follows:

Article 86

Renewal fees for a European patent application

(1) Renewal fees for a European patent application shall be paid to the European Patent Office in accordance with the Implementing Regulations. These fees shall be due in respect of the third year and each subsequent year, calculated from the date of filing of the application. If a renewal fee is not paid in due time, the application shall be deemed to be withdrawn.

(2) The obligation to pay renewal fees shall terminate with the payment of the renewal fee due in respect of the year in which the mention of the grant of the European patent is published.

34. Article 87 shall be amended to read as follows:

Article 87

Priority right

(1) Any person who has duly filed, in or for

(a) any State party to the Paris Convention for the Protection of Industrial Property

or

(b) any Member of the World Trade Organization,

an application for a patent, a utility model or a utility certificate, or his successor in title, shall enjoy, for the purpose of filing a European patent application in respect of the same invention, a right of priority during a period of twelve months from the date of filing of the first application.

(e) izveček
in izpolnjevati pogoje, določene v pravilniku o izvajanju.

(2) Za evropsko patentno prijavo se plačata prijavna pristojbina in pristojbina za poizvedbo. Če prijavna pristojbina ali pristojbina za poizvedbo ni pravočasno plačana, se prijava šteje za umaknjeno.

31. Spremeni se 79. člen in se glasi:

79. člen

Imenovanje držav pogodbenic

(1) Šteje se, da so vse države, ki so bile pogodbenice te konvencije ob vložitvi evropske patentne prijave, imenovane v zahtevi za podelitev evropskega patenta.

(2) Za imenovanje države pogodbenice se lahko zahteva plačilo pristojbine za imenovanje.

(3) Imenovanje države pogodbenice se lahko umakne kadar koli do podelitve evropskega patenta.

32. Spremeni se 80. člen in se glasi:

80. člen

Datum vložitve

Datum vložitve evropske patentne prijave je datum, na katerega so izpolnjeni pogoji, določeni v pravilniku o izvajanju.

33. Spremeni se 86. člen in se glasi:

86. člen

Pristojbine za podaljšanje veljavnosti evropske patentne prijave

(1) Za evropsko patentno prijavo se Evropskemu patentnemu uradu plačujejo pristojbine za podaljšanje veljavnosti v skladu s pravilnikom o izvajanju. Te pristojbine se plačajo za tretje in vsako naslednje leto, šteto od datuma vložitve prijave. Če pristojbina za podaljšanje veljavnosti ni pravočasno plačana, se šteje prijava za umaknjeno.

(2) Obveznost plačila pristojbine za podaljšanje veljavnosti preneha s plačilom te pristojbine za leto, v katerem je objavljena omemba podelitve evropskega patenta.

34. Spremeni se 87. člen in se glasi:

87. člen

Prednostna pravica

(1) Katera koli oseba, ki je:

(a) v kateri koli državi pogodbenici Pariške konvencije za varstvo industrijske lastnine ali zanjo ali

(b) v kateri koli članici Svetovne trgovinske organizacije ali zanjo

pravilno vložila prijavo za patent, uporabni model ali spričevalo o koristnosti, ali njen pravni naslednik, ima pri vložitvi evropske patentne prijave za isti izum prednostno pravico v obdobju dvanajstih mesecev od datuma vložitve prve prijave.

(2) Every filing that is equivalent to a regular national filing under the national law of the State where it was made or under bilateral or multilateral agreements, including this Convention, shall be recognised as giving rise to a right of priority.

(3) By a regular national filing is meant any filing that is sufficient to establish the date on which the application was filed, whatever may be the outcome of the application.

(4) A subsequent application for the same subject-matter as a previous first application and filed in or in respect of the same State shall be considered as the first application for the purposes of determining priority, provided that, at the date of filing the subsequent application, the previous application has been withdrawn, abandoned or refused, without being open to public inspection and without leaving any rights outstanding, and has not served as a basis for claiming a right of priority. The previous application may not thereafter serve as a basis for claiming a right of priority.

(5) If the first filing has been made with an industrial property authority which is not subject to the Paris Convention for the Protection of Industrial Property or the Agreement Establishing the World Trade Organization, paragraphs 1 to 4 shall apply if that authority, according to a communication issued by the President of the European Patent Office, recognises that a first filing made at the European Patent Office gives rise to a right of priority under conditions and with effects equivalent to those laid down in the Paris Convention.

35. Article 88 shall be amended to read as follows:

Article 88

Claiming priority

(1) An applicant desiring to take advantage of the priority of a previous application shall file a declaration of priority and any other document required, in accordance with the Implementing Regulations.

(2) Multiple priorities may be claimed in respect of a European patent application, notwithstanding the fact that they originated in different countries. Where appropriate, multiple priorities may be claimed for any one claim. Where multiple priorities are claimed, time limits which run from the date of priority shall run from the earliest date of priority.

(3) If one or more priorities are claimed in respect of a European patent application, the right of priority shall cover only those elements of the European patent application which are included in the application or applications whose priority is claimed.

(4) If certain elements of the invention for which priority is claimed do not appear among the claims formulated in the previous application, priority may nonetheless be granted, provided that the documents of the previous application as a whole specifically disclose such elements.

36. Article 90 shall be amended to read as follows:

Article 90

Examination on filing and examination as to formal requirements

(1) The European Patent Office shall examine, in accordance with the Implementing Regulations, whether the application satisfies the requirements for the accordance of a date of filing.

(2) If a date of filing cannot be accorded following the examination under paragraph 1, the application shall not be dealt with as a European patent application.

(2) Vsaka prijava, ki je enakovredna redni državni prijavi po domačem pravu države, v kateri je bila vložena, ali po dvostranskih ali večstranskih sporazumih, vključno s to konvencijo, se prizna kot podlaga za prednostno pravico.

(3) Redna državna prijava je vsaka prijava, ki zadošča za določitev datuma, na katerega je bila vložena, ne glede na končni izid prijave.

(4) Poznejša prijava, ki se nanaša na isti predmet kot prejšnja prva prijava in je vložena v isti državi ali za isto državo, se pri določanju prednosti obravnava kot prva prijava, če je bila na dan vložitve poznejše prijave prejšnja prijava umaknjena, opuščena ali zavržena, ne da bi bila dostopna javnosti in ne da bi za seboj puščala kake pravice, in še ni bila podlaga za zahtevo za prednostno pravico. Prejšnja prijava po tem ne more biti več podlaga za zahtevo za prednostno pravico.

(5) Če je prva prijava vložena pri organu za industrijsko lastnino, ki ga ne zavezuje Pariška konvencija za varstvo industrijske lastnine ali Sporazum o ustanovitvi Svetovne trgovinske organizacije, se prvi do četrți odstavek uporabljajo, če ta organ v skladu s sporočilom, ki ga izda predsednik Evropskega patentnega urada, prizna, da je prva prijava, vložena pri Evropskem patentnem uradu, podlaga za prednostno pravico pod pogoji in z učinki, ki so enakovredni tistim, določenim v Pariški konvenciji.

35. Spremeni se 88. člen in se glasi:

88. člen

Zahteva za prednost

(1) Prijavitelj, ki želi izkoristiti prednost prejšnje prijave, mora vložiti izjavo o prednosti in vsak drug zahtevani dokument v skladu s pravilnikom o izvajanju.

(2) Za evropsko patentno prijavo se lahko zahtevajo večkratne prednosti, tudi če izvirajo iz različnih držav. Kadar je primerno, se lahko večkratne prednosti zahtevajo za posamezne patentni zahtevek. Če so zahtevane večkratne prednosti, se roki, ki začnejo teči od prednostnega datuma, štejejo od najzgodnejšega prednostnega datuma.

(3) Če se za evropsko patentno prijavo zahteva ena ali več prednosti, se prednostna pravica nanaša samo na tiste elemente evropske patentne prijave, ki so vključeni v prijavo ali prijave, katerih prednost se zahteva.

(4) Če nekaterih elementov izuma, za katere se zahteva prednost, ni v patentnih zahtevkih, navedenih v prejšnji prijavi, se lahko prednost kljub temu prizna, če dokumenti prejšnje prijave kot celota natančno razkrivajo take elemente.

36. Spremeni se 90. člen in se glasi:

90. člen

Preizkus ob vložitvi in preizkus glede formalnih zahtev

(1) Evropski patentni urad v skladu s pravilnikom o izvajanju preizkusi, ali prijava izpolnjuje pogoje za dodelitev datuma vložitve.

(2) Če po preizkusu po prvem odstavku datuma vložitve ni mogoče dodeliti, se prijava ne obravnava kot evropska patentna prijava.

(3) If the European patent application has been accorded a date of filing, the European Patent Office shall examine, in accordance with the Implementing Regulations, whether the requirements in Articles 14, 78 and 81, and, where applicable, Articles 88, paragraph 1, and 133, paragraph 2, as well as any other requirement laid down in the Implementing Regulations, have been satisfied.

(4) Where the European Patent Office in carrying out the examination under paragraphs 1 or 3 notes that there are deficiencies which may be corrected, it shall give the applicant an opportunity to correct them.

(5) If any deficiency noted in the examination under paragraph 3 is not corrected, the European patent application shall be refused. Where the deficiency concerns the right of priority, this right shall be lost for the application.

37. Article 91 shall be deleted.

38. Article 92 shall be amended to read as follows:

Article 92

Drawing up the European search report

The European Patent Office shall, in accordance with the Implementing Regulations, draw up and publish a European search report in respect of the European patent application on the basis of the claims, with due regard to the description and any drawings.

39. Article 93 shall be amended to read as follows:

Article 93

Publication of the European patent application

(1) The European Patent Office shall publish the European patent application as soon as possible

(a) after the expiry of a period of eighteen months from the date of filing or, if priority has been claimed, from the date of priority, or

(b) at the request of the applicant, before the expiry of that period.

(2) The European patent application shall be published at the same time as the specification of the European patent when the decision to grant the patent becomes effective before the expiry of the period referred to in paragraph 1(a).

40. Article 94 shall be amended to read as follows:

Article 94

Examination of the European patent application

(1) The European Patent Office shall, in accordance with the Implementing Regulations, examine on request whether the European patent application and the invention to which it relates meet the requirements of this Convention. The request shall not be deemed to be filed until after the examination fee has been paid.

(2) If no request for examination has been made in due time, the application shall be deemed to be withdrawn.

(3) If the examination reveals that the application or the invention to which it relates does not meet the requirements of this Convention, the Examining Division shall invite the applicant, as often as necessary, to file his observations and, subject to Article 123, paragraph 1, to amend the application.

(4) If the applicant fails to reply in due time to any communication from the Examining Division, the application shall be deemed to be withdrawn.

(3) Če je bil evropski patentni prijavi dodeljen datum vložitve, Evropski patentni urad v skladu s pravilnikom o izvajanju preizkusi, ali so bili izpolnjeni pogoji iz 14., 78. in 81. člena, in kadar je primerno, prvega odstavka 88. člena in drugega odstavka 133. člena kot tudi vsak drug pogoj, določen v pravilniku o izvajanju.

(4) Če Evropski patentni urad med preizkusom po prvem ali tretjem odstavku ugotovi pomanjkljivosti, ki se jih da odpraviti, omogoči prijavitelju, da jih odpravi.

(5) Če pomanjkljivost, ugotovljena med preizkusom po tretjem odstavku, ni odpravljena, se evropska patentna prijava zavrne. Kadar se pomanjkljivost nanaša na prednostno pravico, prijava to pravico izgubi.

37. Črta se 91. člen.

38. Spremeni se 92. člen in se glasi:

92. člen

Sestava evropskega poročila o poizvedbi

(1) Evropski patentni urad v skladu s pravilnikom o izvajanju sestavi in objavi evropsko poročilo o poizvedbi za evropsko patentno prijavo na podlagi patentnih zahtevkov, pri čemer upošteva opis in skice.

39. Spremeni se 93. člen in se glasi:

93. člen

Objava evropske patentne prijave

(1) Evropski patentni urad objavi evropsko patentno prijavo čim prej

(a) po poteku osemnajstih mesecev od datuma vložitve prijave ali od prednostnega datuma, če se zahteva prednost, ali

(b) na zahtevo prijavitelja pred potekom tega obdobja.

(2) Evropska patentna prijava se objavi istočasno kot evropski patentni spis, če je odločitev o podelitvi patenta začela veljati pred potekom obdobja iz pododstavka (a) prvega odstavka.

40. Spremeni se 94. člen in se glasi:

94. člen

Preizkus evropske patentne prijave

(1) Evropski patentni urad v skladu s pravilnikom o izvajanju na podlagi zahteve preizkusi, ali evropska patentna prijava in izum, na katerega se nanaša, izpolnjujeta pogoje te konvencije. Zahteva se ne šteje za vloženo, dokler ni plačana pristojbina za preizkus.

(2) Če zahteva za preizkus ni pravočasno vložena, se šteje prijava za umaknjeno.

(3) Če se pri preizkusu ugotovi, da prijava ali izum, na katerega se ta nanaša, ne izpolnjuje pogojev te konvencije, oddelek za preizkuse pozove prijavitelja, kolikor je treba, da vložijo svoje pripombe in ob upoštevanju prvega odstavka 123. člena spremeni prijavo.

(4) Če prijavitelj ne odgovori pravočasno na sporočilo oddelka za preizkuse, se šteje prijava za umaknjeno.

41. Articles 95 and 96 shall be deleted.

41. Črtata se 95. in 96. člen.

42. Article 97 shall be amended to read as follows:

42. Spremeni se 97. člen in se glasi:

Article 97

Grant or refusal

97. člen

Podelitev ali zavrnitev

(1) If the Examining Division is of the opinion that the European patent application and the invention to which it relates meet the requirements of this Convention, it shall decide to grant a European patent, provided that the conditions laid down in the Implementing Regulations are fulfilled.

(1) Če oddelek za preizkuse meni, da evropska patentna prijava in izum, na katerega se nanaša, izpolnjujeta pogoje te konvencije, se odloči podeliti evropski patent, če so izpolnjeni pogoji, določeni v pravilniku o izvajanju.

(2) If the Examining Division is of the opinion that the European patent application or the invention to which it relates does not meet the requirements of this Convention, it shall refuse the application unless a different sanction is provided for by this Convention.

(2) Če oddelek za preizkuse meni, da evropska patentna prijava ali izum, na katerega se nanaša, ne izpolnjuje pogojev te konvencije, zavrne prijavo, razen če ta konvencija ne predvideva drugačne sankcije.

(3) The decision to grant a European patent shall take effect on the date on which the mention of the grant is published in the European Patent Bulletin.

(3) Odločitev o podelitvi evropskega patenta začne veljati z datumom, ko je v Evropskem patentnem biltenu objavljena omemba podelitve.

43. Article 98 shall be amended to read as follows:

43. Spremeni se 98. člen in se glasi:

Article 98

Publication of the specification of the European patent

98. člen

Objava evropskega patentnega spisa

The European Patent Office shall publish the specification of the European patent as soon as possible after the mention of the grant of the European patent has been published in the European Patent Bulletin.

Evropski patentni urad objavi evropski patentni spis čim prej po objavi omembe podelitve evropskega patenta v Evropskem patentnem biltenu.

44. The title of Part V shall be amended to read as follows:

44. Spremeni se naslov V. dela in se glasi:

PART V

OPPOSITION AND LIMITATION PROCEDURE

V. DEL

POSTOPEK UGOVORA IN OMEJITVE

45. Article 99 shall be amended to read as follows:

45. Spremeni se 99. člen in se glasi:

Article 99

Opposition

99. člen

Ugovor

(1) Within nine months of the publication of the mention of the grant of the European patent in the European Patent Bulletin, any person may give notice to the European Patent Office of opposition to that patent, in accordance with the Implementing Regulations. Notice of opposition shall not be deemed to have been filed until after the opposition fee has been paid.

(1) V devetih mesecih od objave omembe podelitve evropskega patenta v Evropskem patentnem biltenu lahko vsakdo v skladu s pravilnikom o izvajanju ugovarja pri Evropskem patentnem uradu zoper ta patent. Obvestilo o ugovoru se ne šteje za vloženo, dokler ni plačana pristojbina za ugovor.

(2) The opposition shall apply to the European patent in all the Contracting States in which that patent has effect.

(2) Ugovor se nanaša na evropski patent v vseh državah pogodbenicah, v katerih ta patent velja.

(3) Opponents shall be parties to the opposition proceedings as well as the proprietor of the patent.

(3) Osebe, ki ugovarjajo, in imetnik patenta so stranke v postopku ugovora.

(4) Where a person provides evidence that in a Contracting State, following a final decision, he has been entered in the patent register of such State instead of the previous proprietor, such person shall, at his request, replace the previous proprietor in respect of such State. By derogation from Article 118, the previous proprietor and the person making the request shall not be deemed to be joint proprietors unless both so request.

(4) Če nekdo predloži dokaz, da je bil v državi pogodbenici na podlagi končne odločitve vpisan v register patentov te države namesto prejšnjega imetnika, za to državo na svojo zahtevo nadomesti prejšnjega imetnika. Ne glede na 118. člen se prejšnji imetnik in oseba, ki vložijo zahtevo, ne štejeta za skupna imetnika, razen če tega oba ne zahtevata.

46. Article 101 shall be amended to read as follows:*Article 101*

Examination of the opposition –
Revocation or maintenance of
the European patent

(1) If the opposition is admissible, the Opposition Division shall examine, in accordance with the Implementing Regulations, whether at least one ground for opposition under Article 100 prejudices the maintenance of the European patent. During this examination, the Opposition Division shall invite the parties, as often as necessary, to file observations on communications from another party or issued by itself.

(2) If the Opposition Division is of the opinion that at least one ground for opposition prejudices the maintenance of the European patent, it shall revoke the patent. Otherwise, it shall reject the opposition.

(3) If the Opposition Division is of the opinion that, taking into consideration the amendments made by the proprietor of the patent during the opposition proceedings, the patent and the invention to which it relates

(a) meet the requirements of this Convention, it shall decide to maintain the patent as amended, provided that the conditions laid down in the Implementing Regulations are fulfilled;

(b) do not meet the requirements of this Convention, it shall revoke the patent.

47. Article 102 shall be deleted.**48. Article 103 shall be amended to read as follows:***Article 103*

Publication of a new specification of
the European patent

If a European patent is maintained as amended under Article 101, paragraph 3(a), the European Patent Office shall publish a new specification of the European patent as soon as possible after the mention of the opposition decision has been published in the European Patent Bulletin.

49. Article 104 shall be amended to read as follows:*Article 104*

Costs

(1) Each party to the opposition proceedings shall bear the costs it has incurred, unless the Opposition Division, for reasons of equity, orders, in accordance with the Implementing Regulations, a different apportionment of costs.

(2) The procedure for fixing costs shall be laid down in the Implementing Regulations.

(3) Any final decision of the European Patent Office fixing the amount of costs shall be dealt with, for the purpose of enforcement in the Contracting States, in the same way as a final decision given by a civil court of the State in the territory of which enforcement is to be carried out. Verification of such decision shall be limited to its authenticity.

46. Spremeni se 101. člen in se glasi:*101. člen*

Preizkus ugovora
Razveljavitev ali vzdrževanje
evropskega patenta

(1) Če je ugovor sprejemljiv, oddelek za ugovore v skladu s pravilnikom o izvajanju preizkusi, ali vsaj en razlog za ugovor po 100. členu nasprotuje vzdrževanju evropskega patenta. Med preizkusom oddelek za ugovore pozove stranke, kolikorkrat je treba, da vložijo pripombe k sporočilom druge stranke ali njegovim sporočilom.

(2) Če oddelek za ugovore meni, da vsaj en razlog za ugovor nasprotuje vzdrževanju evropskega patenta, patent razveljavi. V nasprotnem primeru zavrne ugovor.

(3) Če ob upoštevanju sprememb, ki jih je opravil imetnik patenta v postopku ugovora, oddelek za ugovore meni, da patent in izum, na katerega se ta nanaša:

(a) izpolnjujeta pogoje te konvencije, se odloči vzdrževati spremenjeni patent, če so izpolnjeni pogoji, določeni v pravilniku o izvajanju;

(b) ne izpolnjujeta pogojev te konvencije, patent razveljavi.

47. Črta se 102. člen.**48. Spremeni se 103. člen in se glasi:***103. člen*

Objava novega evropskega
patentnega spisa

Če se evropski patent vzdržuje, kot je bil spremenjen po pododstavku (a) tretjega odstavka 101. člena, Evropski patentni urad objavi novi evropski patentni spis čim prej po objavi omembe odločitve o ugovoru v Evropskem patentnem biltenu.

49. Spremeni se 104. člen in se glasi:*104. člen*

Stroški

(1) Vsaka stranka v postopku ugovora nosi svoje stroške, razen če oddelek za ugovore zaradi pravičnosti v skladu s pravilnikom o izvajanju ne določi drugačne porazdelitve stroškov.

(2) Postopek za določitev stroškov je določen v pravilniku o izvajanju.

(3) Vsaka končna odločitev Evropskega patentnega urada, ki določa znesek stroškov, se za izvrševanje v državah pogodbenicah obravnava enako kot končna odločitev civilnega sodišča države, na ozemlju katere mora biti izvršena. Preverjanje take odločitve je omejeno le na njeno verodostojnost.

50. Article 105 shall be amended to read as follows:*Article 105*

Intervention of the assumed infringer

(1) Any third party may, in accordance with the Implementing Regulations, intervene in opposition proceedings after the opposition period has expired, if the third party proves that

(a) proceedings for infringement of the same patent have been instituted against him, or

(b) following a request of the proprietor of the patent to cease alleged infringement, the third party has instituted proceedings for a ruling that he is not infringing the patent.

(2) An admissible intervention shall be treated as an opposition.

51. The following new Articles 105a, 105b and 105c shall be inserted after Article 105:*Article 105a*

Request for limitation or revocation

(1) At the request of the proprietor, the European patent may be revoked or be limited by an amendment of the claims. The request shall be filed with the European Patent Office in accordance with the Implementing Regulations. It shall not be deemed to have been filed until after the limitation or revocation fee has been paid.

(2) The request may not be filed while opposition proceedings in respect of the European patent are pending.

Article 105b

Limitation or revocation of the European patent

(1) The European Patent Office shall examine whether the requirements laid down in the Implementing Regulations for limiting or revoking the European patent have been met.

(2) If the European Patent Office considers that the request for limitation or revocation of the European patent meets these requirements, it shall decide to limit or revoke the European patent in accordance with the Implementing Regulations. Otherwise, it shall reject the request.

(3) The decision to limit or revoke the European patent shall apply to the European patent in all the Contracting States in respect of which it has been granted. It shall take effect on the date on which the European Patent Bulletin mentions the decision.

Article 105c

Publication of the amended specification of the European patent

If the European patent is limited under Article 105b, paragraph 2, the European Patent Office shall publish the amended specification of the European patent as soon as possible after the mention of the limitation has been published in the European Patent Bulletin.

52. Article 106 shall be amended to read as follows:*Article 106*

Decisions subject to appeal

(1) An appeal shall lie from decisions of the Receiving Section, Examining Divisions, Opposition Divisions and the Legal Division. It shall have suspensive effect.

50. Spremeni se 105. člen in se glasi:*105. člen*

Posredovanje domnevnega kršitelja

(1) Vsaka tretja oseba lahko v skladu s pravilnikom o izvajanju po poteku roka za ugovor posreduje v postopku ugovora, če dokaže:

(a) da je bil proti njej sprožen postopek zaradi kršitve tega patenta; ali

(b) da je na zahtevo imetnika patenta, naj preneha z domnevno kršitvijo patenta, sprožila postopek, v katerem naj se ugotovi, da ne krši patenta.

(2) Dopustno posredovanje se obravnava kot ugovor.

51. Po 105. členu se vstavijo novi 105.a, 105.b in 105.c člen, ki se glasijo:*105.a člen*

Zahteva za omejitev ali razveljavitev

(1) Na zahtevo imetnika se lahko evropski patent razveljavi ali omeji s spremembo patentnih zahtevkov. Zahteva se vložijo pri Evropskem patentnem uradu v skladu s pravilnikom o izvajanju. Zahteva se ne šteje za vloženo, dokler ni plačana pristojbina za omejitev ali razveljavitev.

(2) Zahteve ni mogoče vložiti, dokler traja postopek ugovora v zvezi z evropskim patentom.

105.b člen

Omejitev ali razveljavitev evropskega patenta

(1) Evropski patentni urad preizkusi, ali so izpolnjeni pogoji za omejitev ali razveljavitev evropskega patenta, določeni v pravilniku o izvajanju.

(2) Če Evropski patentni urad meni, da zahteva za omejitev ali razveljavitev evropskega patenta izpolnjuje te pogoje, se odloči omejitvi ali razveljaviti evropski patent v skladu s pravilnikom o izvajanju. V nasprotnem primeru zahtevo zavrne.

(3) Odločitev o omejitvi ali razveljavitvi evropskega patenta velja za evropski patent v vseh državah pogodbenicah, za katere je bil podeljen. Veljati začne z datumom, ko je bila odločitev omenjena v Evropskem patentnem biltenu.

105.c člen

Objava spremenjenega evropskega patentnega spisa

Če se evropski patent omeji po drugem odstavku 105.b člena, Evropski patentni urad objavi spremenjeni evropski patentni spis čim prej po objavi omembe o omejitvi v Evropskem patentnem biltenu.

52. Spremeni se 106. člen in se glasi:*106. člen*

Odločitve, zoper katere je možna pritožba

(1) Pritožba se lahko vložijo zoper odločitve sprejemne pisarne, oddelkov za preizkuse, oddelkov za ugovore in pravnega oddelka. Pritožba zadrži izvršitev.

(2) A decision which does not terminate proceedings as regards one of the parties can only be appealed together with the final decision, unless the decision allows separate appeal.

(3) The right to file an appeal against decisions relating to the apportionment or fixing of costs in opposition proceedings may be restricted in the Implementing Regulations.

53. Article 108 shall be amended to read as follows:

Article 108

Time limit and form of appeal

Notice of appeal shall be filed, in accordance with the Implementing Regulations, at the European Patent Office within two months of notification of the decision. Notice of appeal shall not be deemed to have been filed until after the fee for appeal has been paid. Within four months of notification of the decision, a statement setting out the grounds of appeal shall be filed in accordance with the Implementing Regulations.

54. Article 110 shall be amended to read as follows:

Article 110

Examination of appeals

If the appeal is admissible, the Board of Appeal shall examine whether the appeal is allowable. The examination of the appeal shall be conducted in accordance with the Implementing Regulations.

55. The following new Article 112a shall be inserted after Article 112:

Article 112a

Petition for review by the Enlarged Board of Appeal

(1) Any party to appeal proceedings adversely affected by the decision of the Board of Appeal may file a petition for review of the decision by the Enlarged Board of Appeal.

(2) The petition may only be filed on the grounds that:

(a) a member of the Board of Appeal took part in the decision in breach of Article 24, paragraph 1, or despite being excluded pursuant to a decision under Article 24, paragraph 4;

(b) the Board of Appeal included a person not appointed as a member of the Boards of Appeal;

(c) a fundamental violation of Article 113 occurred;

(d) any other fundamental procedural defect defined in the Implementing Regulations occurred in the appeal proceedings; or

(e) a criminal act established under the conditions laid down in the Implementing Regulations may have had an impact on the decision.

(3) The petition for review shall not have suspensive effect.

(4) The petition for review shall be filed in a reasoned statement, in accordance with the Implementing Regulations. If based on paragraph 2(a) to (d), the petition shall be filed within two months of notification of the decision of the Board of Appeal. If based on paragraph 2(e), the petition shall be filed within two months of the date on which the criminal act has been established and in any event not later than five years from notification of the decision of the Board of Appeal. The petition shall not be deemed to have been filed until after the prescribed fee has been paid.

(2) Zoper odločitev, s katero se ne konča postopek za eno od strank, je možna pritožba le ob končni odločitvi, razen če omenjena odločitev dopušča ločeno pritožbo.

(3) Pravilnik o izvajanju lahko omeji pravico do vložitve pritožbe zoper odločitve, ki se nanašajo na porazdelitev ali določitev stroškov v postopku ugovora.

53. Spremeni se 108. člen in se glasi:

108. člen

Rok in oblika pritožbe

Pritožba se v skladu s pravilnikom o izvajanju vložijo pri Evropskem patentnem uradu v dveh mesecih od uradnega obvestila o odločitvi. Pritožba se ne šteje za vloženo, dokler ni plačana pristojbina za pritožbo. V štirih mesecih od uradnega obvestila o odločitvi se v skladu s pravilnikom o izvajanju vložijo obrazložitev razlogov za pritožbo.

54. Spremeni se 110. člen in se glasi:

110. člen

Preizkus pritožb

Če je pritožba sprejemljiva, pritožbeni senat prouči njeno utemeljenost. Preizkus pritožbe poteka v skladu s pravilnikom o izvajanju.

55. Po 112. členu se vstavi novi 112.a člen, ki se glasi:

112.a člen

Prošnja za presojo razširjenega pritožbenega senata

(1) Vsaka stranka v pritožbenem postopku, za katero je bila odločitev pritožbenega senata neugodna, lahko zaprosi, da razširjeni pritožbeni senat presodi odločitev.

(2) Prošnja se lahko vložijo le iz naslednjih razlogov:

(a) da je član pritožbenega senata sodeloval pri odločitvi v nasprotju s prvim odstavkom 24. člena ali da je pri njej sodeloval, kljub temu da je bil izključen na podlagi odločitve po četrtem odstavku 24. člena;

(b) da je bila v pritožbenem senatu oseba, ki ni bila imenovana za člana pritožbenega senata;

(c) da je prišlo do bistvene kršitve 113. člena;

(d) da je v pritožbenem postopku prišlo do katere koli druge bistvene postopkovne napake, opredeljene v pravilniku o izvajanju; ali

(e) da bi kaznivo dejanje, ugotovljeno na podlagi pogojev, določenih v pravilniku o izvajanju, lahko vplivalo na odločitev.

(3) Prošnja za presojo ne zadrži izvršitve.

(4) Prošnja za presojo se vložijo z obrazložitvijo v skladu s pravilnikom o izvajanju. Če temelji na pododstavkih (a) do (d) drugega odstavka, se prošnja vložijo v dveh mesecih od uradnega obvestila o odločitvi pritožbenega senata. Če temelji na pododstavku (e) drugega odstavka, se prošnja vložijo v dveh mesecih od datuma, ko je bilo ugotovljeno kaznivo dejanje, nikakor pa ne pozneje kot pet let od uradnega obvestila o odločitvi pritožbenega senata. Prošnja se ne šteje za vloženo, dokler ni plačana predpisana pristojbina.

(5) The Enlarged Board of Appeal shall examine the petition for review in accordance with the Implementing Regulations. If the petition is allowable, the Enlarged Board of Appeal shall set aside the decision under review and shall re-open proceedings before the Boards of Appeal in accordance with the Implementing Regulations.

(6) Any person who, in a designated Contracting State, has in good faith used or made effective and serious preparations for using an invention which is the subject of a published European patent application or a European patent in the period between the decision of the Board of Appeal under review and publication of the mention of the decision of the Enlarged Board of Appeal on the petition, may without payment continue such use in the course of his business or for the needs thereof.

56. Article 115 shall be amended to read as follows:

Article 115

Observations by third parties

In proceedings before the European Patent Office, following the publication of the European patent application, any third party may, in accordance with the Implementing Regulations, present observations concerning the patentability of the invention to which the application or patent relates. That person shall not be a party to the proceedings.

57. Article 117 shall be amended to read as follows:

Article 117

Means and taking of evidence

(1) In proceedings before the European Patent Office the means of giving or obtaining evidence shall include the following:

- (a) hearing the parties;
- (b) requests for information;
- (c) production of documents;
- (d) hearing witnesses;
- (e) opinions by experts;
- (f) inspection;
- (g) sworn statements in writing.

(2) The procedure for taking such evidence shall be laid down in the Implementing Regulations.

58. Article 119 shall be amended to read as follows:

Article 119

Notification

Decisions, summonses, notices and communications shall be notified by the European Patent Office of its own motion in accordance with the Implementing Regulations. Notifications may, where exceptional circumstances so require, be effected through the intermediary of the central industrial property offices of the Contracting States.

59. Article 120 shall be amended to read as follows:

Article 120

Time limits

The Implementing Regulations shall specify:
(a) the time limits which are to be observed in proceedings before the European Patent Office and are not fixed by this Convention;

(5) Razširjeni pritožbeni senat prouči prošnjo za presojo v skladu s pravilnikom o izvajanju. Če je prošnja dopustna, razširjeni pritožbeni senat razveljavi odločitev, o kateri se presoja, in ponovno začne postopek pri pritožbenem senatu v skladu s pravilnikom o izvajanju.

(6) Vsakdo, ki je v imenovani državi pogodbenici v obdobju med odločitvijo pritožbenega senata, o kateri se presoja, in objavo omembe o odločitvi razširjenega pritožbenega senata v dobri veri uporabljal izum, ki je predmet objavljene evropske patentne prijave ali evropskega patenta, ali opravil učinkovite in resne priprave za njegovo uporabo, lahko brezplačno nadaljuje s tako uporabo v svojem poslovanju ali za potrebe tega poslovanja.

56. Spremeni se 115. člen in se glasi:

115. člen

Pripombe tretjih oseb

V postopku pri Evropskem patentnem uradu lahko po objavi evropske patentne prijave vsaka tretja oseba v skladu s pravilnikom o izvajanju da pripombe v zvezi z možnostjo patentiranja izuma, na katerega se prijava ali patent nanaša. Ta oseba ni stranka v postopku.

57. Spremeni se 117. člen in se glasi:

117. člen

Dokazna sredstva in izvajanje dokazov

(1) Sredstva dajanja in zbiranja dokazov v postopku pri Evropskem patentnem uradu vključujejo naslednje:

- (a) zaslišanje strank,
- (b) zahteve za podatke,
- (c) predložitev listin,
- (d) zaslišanje prič,
- (e) izvedenska mnenja,
- (f) ogled,
- (g) zaprisežene pisne izjave.

(2) Postopek izvajanja takih dokazov je določen v pravilniku o izvajanju.

58. Spremeni se 119. člen in se glasi:

119. člen

Uradno obveščanje

Evropski patentni urad na lastno pobudo uradno obvešča o odločitvah, vabilih, obvestilih in sporočilih v skladu s pravilnikom o izvajanju. Kadar to zahtevajo izjemne okoliščine, se uradna obvestila lahko dajejo s posredovanjem osrednjih uradov za industrijsko lastnino držav pogodbenic.

59. Spremeni se 120. člen in se glasi:

120. člen

Roki

Pravilnik o izvajanju natančno določa:

(a) roke, ki jih je treba upoštevati v postopku pri Evropskem patentnem uradu in niso določeni s to konvencijo;

(b) the manner of computation of time limits and the conditions under which time limits may be extended;

(c) the minima and maxima for time limits to be determined by the European Patent Office.

60. Article 121 shall be amended to read as follows:

Article 121

Further processing of
the European patent application

(1) If an applicant fails to observe a time limit vis-a-vis the European Patent Office, he may request further processing of the European patent application.

(2) The European Patent Office shall grant the request, provided that the requirements laid down in the Implementing Regulations are met. Otherwise, it shall reject the request.

(3) If the request is granted, the legal consequences of the failure to observe the time limit shall be deemed not to have ensued.

(4) Further processing shall be ruled out in respect of the time limits in Article 87, paragraph 1, Article 108 and Article 112a, paragraph 4, as well as the time limits for requesting further processing or re-establishment of rights. The Implementing Regulations may rule out further processing for other time limits.

61. Article 122 shall be amended to read as follows:

Article 122

Re-establishment of rights

(1) An applicant for or proprietor of a European patent who, in spite of all due care required by the circumstances having been taken, was unable to observe a time limit vis-a-vis the European Patent Office shall, upon request, have his rights re-established if the non-observance of this time limit has the direct consequence of causing the refusal of the European patent application, or of a request, or the deeming of the European patent application to have been withdrawn, or the revocation of the European patent, or the loss of any other right or means of redress.

(2) The European Patent Office shall grant the request, provided that the conditions of paragraph 1 and any other requirements laid down in the Implementing Regulations are met. Otherwise, it shall reject the request.

(3) If the request is granted, the legal consequences of the failure to observe the time limit shall be deemed not to have ensued.

(4) Re-establishment of rights shall be ruled out in respect of the time limit for requesting re-establishment of rights. The Implementing Regulations may rule out re-establishment for other time limits.

(5) Any person who, in a designated Contracting State, has in good faith used or made effective and serious preparations for using an invention which is the subject of a published European patent application or a European patent in the period between the loss of rights referred to in paragraph 1 and publication of the mention of re-establishment of those rights, may without payment continue such use in the course of his business or for the needs thereof.

(6) Nothing in this Article shall limit the right of a Contracting State to grant re-establishment of rights in respect of time limits provided for in this Convention and to be observed vis-a-vis the authorities of such State.

(b) način izračunavanja rokov in pogoje, pod katerimi se ti lahko podaljšajo;

(c) najkrajše in najdaljše roke, ki jih določi Evropski patentni urad.

60. Spremeni se 121. člen in se glasi:

121. člen

Nadaljevanje postopka v zvezi z
evropsko patentno prijavo

(1) Če prijavitelj nasproti Evropskemu patentnemu uradu ni upošteval roka, lahko zahteva nadaljevanje postopka v zvezi z evropsko patentno prijavo.

(2) Evropski patentni urad zahtevi ugoditi, če so izpolnjeni pogoji iz prvega odstavka in drugi pogoji, določeni v pravilniku o izvajanju. V nasprotnem primeru zahtevo zavrže.

(3) Če je zahtevi ugodeno, se šteje, da pravne posledice neupoštevanja roka niso nastopile.

(4) Nadaljevanje postopka je izključeno v zvezi z roki iz prvega odstavka 87. člena, 108. člena in četrtega odstavka 112.a člena in tudi z roki za zahtevo za nadaljevanje postopka v zvezi s pravicami ali za njihovo ponovno vzpostavitev. Pravilnik o izvajanju lahko izključi nadaljevanje postopka tudi za druge roke.

61. Spremeni se 122. člen in se glasi:

122. člen

Ponovna vzpostavitev pravic

(1) Prijavitelju ali imetniku evropskega patenta, ki kljub potrebni skrbnosti, ki so jo narekemale okoliščine, ni mogel upoštevati roka Evropskega patentnega urada, se na zahtevo ponovno vzpostavijo njegove pravice, če je neposredna posledica neupoštevanja roka zavrnitev evropske patentne prijave ali kake zahteve ali dejstvo, da se evropska patentna prijava šteje za umaknjeno, ali razveljavitev evropskega patenta ali izguba kake druge pravice ali pravnega sredstva.

(2) Evropski patentni urad zahtevi ugoditi, če so izpolnjeni pogoji iz prvega odstavka in vsi drugi pogoji, določeni v pravilniku o izvajanju. V nasprotnem primeru zahtevo zavrže.

(3) Če je zahtevi ugodeno, se šteje, da pravne posledice neupoštevanja roka niso nastopile.

(4) Ponovna vzpostavitev pravic je izključena v zvezi z rokom za zahtevo za ponovno vzpostavitev pravic. Pravilnik o izvajanju lahko izključi ponovno vzpostavitev tudi za druge roke.

(5) Vsakdo, ki je v imenovani državi pogodbenici v obdobju med izgubo pravic iz prvega odstavka in objavo omembe o ponovni vzpostavitvi teh pravic v dobri veri uporabljal izum, ki je predmet objavljene evropske patentne prijave ali evropskega patenta, ali opravil učinkovite in resne priprave za njegovo uporabo, lahko brezplačno nadaljuje s tako uporabo v svojem poslovanju ali za potrebe tega poslovanja.

(6) Ta člen ne omejuje pravice države pogodbenice, da dovoli ponovno vzpostavitev pravic za roke, predvidene s to konvencijo, ki jih je treba upoštevati v odnosu do organov te države.

62. Article 123 shall be amended to read as follows:*Article 123*
Amendments

(1) A European patent application or European patent may be amended in proceedings before the European Patent Office, in accordance with the Implementing Regulations. In any case, the applicant shall be given at least one opportunity of amending the application of his own volition.

(2) A European patent application or European patent may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed.

(3) A European patent may not be amended in such a way as to extend the protection it confers.

63. Article 124 shall be amended to read as follows:*Article 124*
Information on prior art

(1) The European Patent Office may, in accordance with the Implementing Regulations, invite the applicant to provide information on prior art taken into consideration in national or regional patent proceedings and concerning an invention to which the European patent application relates.

(2) If the applicant fails to reply in due time to an invitation under paragraph 1, the European patent application shall be deemed to be withdrawn.

64. Article 126 shall be deleted.**65. Article 127 shall be amended to read as follows:***Article 127*
European Patent Register

The European Patent Office shall keep a European Patent Register, in which the particulars specified in the Implementing Regulations shall be recorded. No entry shall be made in the European Patent Register prior to the publication of the European patent application. The European Patent Register shall be open to public inspection.

66. Article 128 shall be amended to read as follows:*Article 128*
Inspection of files

(1) Files relating to European patent applications which have not yet been published shall not be made available for inspection without the consent of the applicant.

(2) Any person who can prove that the applicant has invoked the rights under the European patent application against him may obtain inspection of the files prior to the publication of that application and without the consent of the applicant.

(3) Where a European divisional application or a new European patent application filed under Article 61, paragraph 1, is published, any person may obtain inspection of the files of the earlier application prior to the publication of that application and without the consent of the applicant.

(4) Subsequent to the publication of the European patent application, the files relating to the application and the resulting European patent may be inspected on request, subject to the restrictions laid down in the Implementing Regulations.

62. Spremeni se 123. člen in se glasi:*123. člen*
Spremembe

(1) Evropska patentna prijava ali evropski patent se lahko spremeni v postopku pri Evropskem patentnem uradu v skladu s pravilnikom o izvajanju. V vsakem primeru mora biti prijavitelju dana vsaj ena priložnost, da po svoji volji spremeni prijavo.

(2) Evropska patentna prijava ali evropski patent se ne sme spremeniti tako, da bi predmet presegal vsebino prijave, kot je bila vložena.

(3) Evropskega patenta ni mogoče spremeniti tako, da bi se razširilo podeljeno varstvo.

63. Spremeni se 124. člen in se glasi:*124. člen*
Podatki o prejšnjem stanju tehnike

(1) Evropski patentni urad lahko v skladu s pravilnikom o izvajanju pozove prijavitelja, da mu predloži podatke o prejšnjem stanju tehnike, ki je bilo upoštevano v državnih ali regionalnih patentnih postopkih in zadeva izum, na katerega se nanaša evropska patentna prijava.

(2) Če prijavitelj ne odgovori pravočasno na poziv iz prvega odstavka, se šteje evropska patentna prijava za umaknjeno.

64. Črta se 126. člen.**65. Spremeni se 127. člen in se glasi:***127. člen*
Evropski patentni register

Evropski patentni urad vodi evropski patentni register, v katerega se vpisujejo podatki, določeni v pravilniku o izvajanju. Noben vpis v evropski patentni register ni možen pred objavo evropske patentne prijave. Evropski patentni register je dostopen javnosti.

66. Spremeni se 128. člen in se glasi:*128. člen*
Vpogled v dokumentacijo

(1) Vpogled v dokumentacijo, ki se nanaša na evropske patentne prijave, ki še niso bile objavljene, ni možen brez soglasja prijavitelja.

(2) Vsakdo, ki lahko dokaže, da je prijavitelj proti njemu uveljavljal pravice iz evropske patentne prijave, ima pravico pregledati dokumentacijo pred objavo te prijave in brez soglasja prijavitelja.

(3) Če je evropska izločena prijava ali nova evropska patentna prijava, vložena na podlagi prvega odstavka 61. člena, objavljena, lahko vsakdo pregleda dokumentacijo prvotne prijave pred njeno objavo brez soglasja prijavitelja.

(4) Po objavi evropske patentne prijave je na zahtevo možen vpogled v dokumentacijo te prijave in evropskega patenta, podeljenega na njeni podlagi, ob upoštevanju omejitev iz pravilnika o izvajanju.

(5) Even prior to the publication of the European patent application, the European Patent Office may communicate to third parties or publish the particulars specified in the Implementing Regulations.

67. Article 129 shall be amended to read as follows:

Article 129

Periodical publications

The European Patent Office shall periodically publish:

(a) a European Patent Bulletin containing the particulars the publication of which is prescribed by this Convention, the Implementing Regulations or the President of the European Patent Office;

(b) an Official Journal containing notices and information of a general character issued by the President of the European Patent Office, as well as any other information relevant to this Convention or its implementation.

68. Article 130 shall be amended to read as follows:

Article 130

Exchange of information

(1) Unless otherwise provided in this Convention or in national laws, the European Patent Office and the central industrial property office of any Contracting State shall, on request, communicate to each other any useful information regarding European or national patent applications and patents and any proceedings concerning them.

(2) Paragraph 1 shall apply to the communication of information by virtue of working agreements between the European Patent Office and

- (a) the central industrial property offices of other States;
- (b) any intergovernmental organisation entrusted with the task of granting patents;
- (c) any other organisation.

(3) The communications under paragraphs 1 and 2(a) and (b) shall not be subject to the restrictions laid down in Article 128. The Administrative Council may decide that communications under paragraph 2(c) shall not be subject to such restrictions, provided that the organisation concerned treats the information communicated as confidential until the European patent application has been published.

69. Article 133 shall be amended to read as follows:

Article 133

General principles of representation

(1) Subject to paragraph 2, no person shall be compelled to be represented by a professional representative in proceedings established by this Convention.

(2) Natural or legal persons not having their residence or principal place of business in a Contracting State shall be represented by a professional representative and act through him in all proceedings established by this Convention, other than in filing a European patent application; the Implementing Regulations may permit other exceptions.

(5) Evropski patentni urad lahko celo pred objavo evropske patentne prijave sporoči tretjim osebam podatke, ki so določeni v pravilniku o izvajanju, ali te podatke objavi.

67. Spremeni se 129. člen in se glasi:

129. člen

Periodične objave

Evropski patentni urad periodično objavlja:

(a) Evropski patentni bilten, ki vsebuje podatke, katerih objavlanje predpisuje ta konvencija, pravilnik o izvajanju ali predsednik Evropskega patentnega urada;

(b) uradno glasilo, ki vsebuje splošna obvestila in informacije, ki jih je dal predsednik Evropskega patentnega urada, in druge informacije v zvezi s to konvencijo in njenim izvajanjem.

68. Spremeni se 130. člen in se glasi:

130. člen

Izmenjava informacij

(1) Evropski patentni urad in osrednji urad za industrijsko lastnino države pogodbenice si na zahtevo sporočata vse koristne informacije o evropskih ali državnih patentnih prijavih in patentih ter o vseh postopkih v zvezi z njimi, razen če ni v tej konvenciji ali v domačem pravu drugače določeno.

(2) Prvi odstavek se uporablja za sporočanje informacij na podlagi delovnih sporazumov med Evropskim patentnim uradom in

- (a) osrednjimi uradi za industrijsko lastnino drugih držav,
- (b) vsako medvladno organizacijo, ki ji je zaupano podeljevanje patentov,
- (c) vsako drugo organizacijo.

(3) Za sporočila po prvem odstavku in pododstavkih (a) in (b) drugega odstavka ne veljajo omejitve iz 128. člena. Upravni svet lahko sklene, da za sporočila po pododstavku (c) drugega odstavka take omejitve ne veljajo, če zadevna organizacija obravnava sporočene informacije kot zaupne, dokler evropska patentna prijava ni objavljena.

69. Spremeni se 133. člen in se glasi:

133. člen

Splošna načela o zastopanju

(1) Ob upoštevanju drugega odstavka ni nihče obvezan, da ga v postopkih, določenih s to konvencijo, zastopa registrirani zastopnik.

(2) Fizične ali pravne osebe, ki nimajo stalnega prebivališča ali sedeža podjetja v državi pogodbenici, morajo imeti registriranega zastopnika in po njem opravljati dejanja v vseh postopkih, določenih s to konvencijo, razen pri vložitvi evropske patentne prijave; pravilnik o izvajanju lahko dopusti tudi druge izjeme.

(3) Natural or legal persons having their residence or principal place of business in a Contracting State may be represented in proceedings established by this Convention by an employee, who need not be a professional representative but who shall be authorised in accordance with the Implementing Regulations. The Implementing Regulations may provide whether and under what conditions an employee of such a legal person may also represent other legal persons which have their principal place of business in a Contracting State and which have economic connections with the first legal person.

(4) The Implementing Regulations may prescribe special provisions concerning the common representation of parties acting in common.

70. Article 134 shall be amended to read as follows:

Article 134

Representation before the European Patent Office

(1) Representation of natural or legal persons in proceedings established by this Convention may only be undertaken by professional representatives whose names appear on a list maintained for this purpose by the European Patent Office.

(2) Any natural person who

(a) is a national of a Contracting State,

(b) has his place of business or employment in a Contracting State and

(c) has passed the European qualifying examination may be entered on the list of professional representatives.

(3) During a period of one year from the date on which the accession of a State to this Convention takes effect, entry on that list may also be requested by any natural person who

(a) is a national of a Contracting State,

(b) has his place of business or employment in the State having acceded to the Convention and

(c) is entitled to represent natural or legal persons in patent matters before the central industrial property office of that State. Where such entitlement is not conditional upon the requirement of special professional qualifications, the person shall have regularly so acted in that State for at least five years.

(4) Entry shall be effected upon request, accompanied by certificates which shall indicate that the conditions laid down in paragraph 2 or 3 are fulfilled.

(5) Persons whose names appear on the list of professional representatives shall be entitled to act in all proceedings established by this Convention.

(6) For the purpose of acting as a professional representative, any person whose name appears on the list referred to in paragraph 1 shall be entitled to establish a place of business in any Contracting State in which proceedings established by this Convention may be conducted, having regard to the Protocol on Centralisation annexed to this Convention. The authorities of such State may remove that entitlement in individual cases only in application of legal provisions adopted for the purpose of protecting public security and law and order. Before such action is taken, the President of the European Patent Office shall be consulted.

(3) Fizične ali pravne osebe, ki imajo stalno prebivališče ali sedež podjetja v državi pogodbenici, lahko v postopkih, določenih s to konvencijo, zastopa njihov uslužbenec, ki ni nujno registrirani zastopnik, mora pa biti pooblaščen v skladu s pravilnikom o izvajanju. V pravilniku o izvajanju je lahko določeno, ali in pod katerimi pogoji lahko uslužbenec take pravne osebe zastopa tudi druge pravne osebe, ki imajo sedež podjetja v državi pogodbenici in gospodarske stike s prvo pravno osebo.

(4) Pravilnik o izvajanju lahko predpiše posebne določbe o skupnem zastopanju strank, ki skupno delujejo.

70. Spremeni se 134. člen in se glasi:

134. člen

Zastopanje pred Evropskim patentnim uradom

(1) V postopkih, določenih s to konvencijo, lahko fizične ali pravne osebe zastopajo samo registrirani zastopniki, vpisani v seznam, ki ga v ta namen vodi Evropski patentni urad.

(2) Vsaka fizična oseba,

(a) ki je državljan države pogodbenice,

(b) ki ima sedež dejavnosti ali zaposlitev v državi pogodbenici in

(c) ki je opravila evropski strokovni izpit,

se lahko vpiše v seznam registriranih zastopnikov.

(3) V enem letu od datuma, ko začne veljati pristop neke države k tej konvenciji, lahko zahteva vpis v ta seznam tudi vsaka fizična oseba,

(a) ki je državljan države pogodbenice,

(b) ki ima sedež dejavnosti ali zaposlitev v državi, ki je pristopila h konvenciji, in

(c) ki ima pravico, da v patentnih zadevah zastopa fizične ali pravne osebe pred osrednjim uradom za industrijsko lastnino te države. Če ta pravica ni pogojena z zahtevo po posebni poklicni usposobljenosti, mora ta oseba redno tako delovati v tej državi že vsaj pet let.

(4) Vpis se opravi na podlagi zahteve, ki so ji priložena potrdila, da so izpolnjeni vsi pogoji iz drugega ali tretjega odstavka.

(5) Osebe, ki so vpisane v seznam registriranih zastopnikov, imajo pravico delovati v vseh postopkih, določenih s to konvencijo.

(6) Vsakdo, ki je vpisan v seznam iz prvega odstavka, ima zato, da bi lahko deloval kot registrirani zastopnik, pravico imeti sedež dejavnosti v vsaki državi pogodbenici, v kateri se vodijo postopki, določeni s to konvencijo, ob upoštevanju protokola o centralizaciji, ki je priloga k tej konvenciji. Organi take države smejo v posameznih primerih preklicati to pravico le z uporabo pravnih določb, sprejetih zaradi zavarovanja javne varnosti, zakona in reda. Preden se sprejme tak ukrep, se je treba posvetovati s predsednikom Evropskega patentnega urada.

(7) The President of the European Patent Office may grant exemption from:

(a) the requirement of paragraphs 2(a) or 3(a) in special circumstances;

(b) the requirement of paragraph 3(c), second sentence, if the applicant furnishes proof that he has acquired the requisite qualification in another way.

(8) Representation in proceedings established by this Convention may also be undertaken, in the same way as by a professional representative, by any legal practitioner qualified in a Contracting State and having his place of business in that State, to the extent that he is entitled in that State to act as a professional representative in patent matters. Paragraph 6 shall apply *mutatis mutandis*.

71. The following new Article 134a shall be inserted after Article 134:

Article 134a

Institute of Professional Representatives before the European Patent Office

(1) The Administrative Council shall be competent to adopt and amend provisions governing:

(a) the Institute of Professional Representatives before the European Patent Office, hereinafter referred to as the Institute;

(b) the qualifications and training required of a person for admission to the European qualifying examination and the conduct of such examination;

(c) any disciplinary power exercised by the Institute or the European Patent Office in respect of professional representatives;

(d) the obligation of confidentiality on the professional representative and the privilege from disclosure in proceedings before the European Patent Office in respect of communications between a professional representative and his client or any other person.

(2) Any person entered on the list of professional representatives referred to in Article 134, paragraph 1, shall be a member of the Institute.

72. Article 135 shall be amended to read as follows:

Article 135

Request for the application of national procedure

(1) The central industrial property office of a designated Contracting State shall, at the request of the applicant for or proprietor of a European patent, apply the procedure for the grant of a national patent in the following circumstances:

(a) when the European patent application is deemed to be withdrawn pursuant to Article 77, paragraph 3;

(b) in such other cases as are provided for by the national law in which the European patent application is refused or withdrawn or deemed to be withdrawn, or the European patent is revoked under this Convention.

(2) In the case referred to in paragraph 1(a), the request for conversion shall be filed with the central industrial property office with which the European patent application has been filed. That office shall, subject to the provisions of national security, transmit the request directly to the central industrial property offices of the Contracting States specified therein.

(7) Predsednik Evropskega patentnega urada sme dovoliti spregled:

(a) pogoja iz pododstavka (a) drugega odstavka ali pododstavka (a) tretjega odstavka v posebnih okoliščinah;

(b) pogoja iz drugega stavka pododstavka (c) tretjega odstavka, če prijavitelj predloži dokaz, da je pridobil zahtevano usposobljenost na drug način.

(8) Zastopanje v postopkih, določenih s to konvencijo, lahko tako kot registrirani zastopnik opravlja vsak odvetnik, ki je v državi pogodbenici za to usposobljen in ima v njej sedež dejavnosti, če ima v tej državi pravico delovati kot registrirani zastopnik v patentnih zadevah. Šesti odstavek se uporablja smiselno.

71. Po 134. členu se vstavi novi 134.a člen, ki se glasi:

134.a člen

Inštitut registriranih zastopnikov pri Evropskem patentnem uradu

(1) Upravni svet je pristojen za sprejemanje in spreminjanje določb, ki urejajo:

(a) Inštitut registriranih zastopnikov pri Evropskem patentnem uradu, v nadaljevanju "inštitut";

(b) usposobljenost in izobrazbo, ki se zahtevata za pristopitev k evropskemu strokovnemu izpitu, in postopek opravljanja tega izpita;

(c) disciplinsko pristojnost inštituta ali Evropskega patentnega urada v zvezi z registriranimi zastopniki;

(d) zavezanost registriranega zastopnika, da varuje tajnost, in posebno pravico, da v postopkih pri Evropskem patentnem uradu ne razkriva sporočil, izmenjanih med njim in stranko ali katero koli drugo osebo.

(2) Vsakdo, ki je vpisan v seznam registriranih zastopnikov iz prvega odstavka 134. člena, je član inštituta.

72. Spremeni se 135. člen in se glasi:

135. člen

Zahteva za uporabo državnega postopka

(1) Osrednji urad za industrijsko lastnino imenovane države pogodbenice začne na zahtevo prijavitelja ali imetnika evropskega patenta postopek za podelitev državnega patenta v naslednjih okoliščinah:

(a) če se evropska patentna prijava šteje za umaknjeno po tretjem odstavku 77. člena;

(b) v drugih primerih, predvidenih po domačem pravu, v katerih je na podlagi te konvencije evropska patentna prijava zavrnjena ali umaknjena ali se šteje za umaknjeno ali je evropski patent razveljavljen.

(2) V primeru iz pododstavka (a) prvega odstavka se zahteva za pretvorbo vložijo pri osrednjem uradu za industrijsko lastnino, pri katerem je bila vložena evropska patentna prijava. Ta urad ob upoštevanju določb državne varnosti pošlje zahtevo neposredno osrednjim uradom za industrijsko lastnino držav pogodbenic, ki so v njej navedene.

(3) In the cases referred to in paragraph 1(b), the request for conversion shall be submitted to the European Patent Office in accordance with the Implementing Regulations. It shall not be deemed to be filed until after the conversion fee has been paid. The European Patent Office shall transmit the request to the central industrial property offices of the Contracting States specified therein.

(4) The effect of the European patent application referred to in Article 66 shall lapse if the request for conversion is not submitted in due time.

73. Article 136 shall be deleted.

74. Article 137 shall be amended to read as follows:

Article 137

Formal requirements for conversion

(1) A European patent application transmitted in accordance with Article 135, paragraph 2 or 3, shall not be subjected to formal requirements of national law which are different from or additional to those provided for in this Convention.

(2) Any central industrial property office to which the application is transmitted may require that the applicant shall, within not less than two months:

(a) pay the national application fee;

(b) file a translation of the original text of the European patent application in one of the official languages of the State in question and, where appropriate, of the text as amended during proceedings before the European Patent Office which the applicant wishes to submit to the national procedure.

75. Article 138 shall be amended to read as follows:

Article 138

Revocation of European patents

(1) Subject to Article 139, a European patent may be revoked with effect for a Contracting State only on the grounds that:

(a) the subject-matter of the European patent is not patentable under Articles 52 to 57;

(b) the European patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art;

(c) the subject-matter of the European patent extends beyond the content of the application as filed or, if the patent was granted on a divisional application or on a new application filed under Article 61, beyond the content of the earlier application as filed;

(d) the protection conferred by the European patent has been extended; or

(e) the proprietor of the European patent is not entitled under Article 60, paragraph 1.

(2) If the grounds for revocation affect the European patent only in part, the patent shall be limited by a corresponding amendment of the claims and revoked in part.

(3) In proceedings before the competent court or authority relating to the validity of the European patent, the proprietor of the patent shall have the right to limit the patent by amending the claims. The patent as thus limited shall form the basis for the proceedings.

(3) V primerih iz pododstavka (b) prvega odstavka se zahteva za pretvorbo predloži Evropskemu patentnemu uradu v skladu s pravilnikom o izvajanju. Šteje se, da zahteva ni vložena, dokler ni plačana pristojbina za pretvorbo. Evropski patentni urad pošlje zahtevo osrednjim uradom za industrijsko lastnino držav pogodbenic, ki so v njej navedene.

(4) Učinek evropske patentne prijave iz 66. člena preneha, če zahteva za pretvorbo ni vložena pravočasno.

73. Črta se 136. člen.

74. Spremeni se 137. člen in se glasi:

137. člen

Formalne zahteve za pretvorbo

(1) Za evropsko patentno prijavo, ki je bila prenesena v skladu z drugim ali tretjim odstavkom 135. člena, ne veljajo formalne zahteve domačega prava, različne od tistih, ki so predvidene s to konvencijo, ali njim dodane.

(2) Osrednji urad za industrijsko lastnino, ki mu je bila poslana prijava, lahko zahteva, da prijavitelj v roku, ki ni krajši od dveh mesecev:

(a) plača državno pristojbino za prijavo;

(b) vloži v enem od uradnih jezikov zadevne države prevod izvirnega besedila evropske patentne prijave, in kadar je primerno, prevod besedila, kot je bilo spremenjeno v postopku pri Evropskem patentnem uradu in ki ga prijavitelj želi predložiti za državni postopek.

75. Spremeni se 138. člen in se glasi:

138. člen

Razveljavitev evropskih patentov

(1) Ob upoštevanju 139. člena se lahko evropski patent razveljavi z učinkom za državo pogodbenico le iz naslednjih razlogov:

(a) če predmeta evropskega patenta ni mogoče patentirati po 52. do 57. členu;

(b) če evropski patent ne razkriva izuma dovolj jasno in popolno, da bi ga lahko strokovnjak izvedel;

(c) če predmet evropskega patenta presega vsebino prijave, kot je bila vložena, ali vsebino prvotne prijave, kot je bila vložena, če je bil patent podeljen na podlagi izločene prijave ali nove prijave, vložene po 61. členu;

(d) če je bil obseg varstva, ki ga daje evropski patent, razširjen; ali

(e) če imetnik evropskega patenta nima pravice po prvem odstavku 60. člena.

(2) Če razlogi za razveljavitev vplivajo le na del evropskega patenta, se patent omeji z ustrezno spremembo patentnih zahtevkov in delno razveljavi.

(3) V postopku pri pristojnem sodišču ali organu v zvezi z veljavnostjo evropskega patenta ima imetnik patenta pravico omejiti patent s spremembo patentnih zahtevkov. Tako omejen patent je podlaga za postopek.

76. Article 140 shall be amended to read as follows:*Article 140*

National utility models and utility certificates

Articles 66, 124, 135, 137 and 139 shall apply to utility models and utility certificates and to applications for utility models and utility certificates registered or deposited in the Contracting States whose laws make provision for such models or certificates.

77. Article 141 shall be amended to read as follows:*Article 141*

Renewal fees for a European patent

(1) Renewal fees for a European patent may only be imposed for the years which follow that referred to in Article 86, paragraph 2.

(2) Any renewal fees falling due within two months after the publication of the mention of the grant of the European patent shall be deemed to have been validly paid if they are paid within that period. Any additional fee provided for under national law shall not be charged.

78. The following new Article 149a shall be inserted after Article 149:*Article 149a*

Other agreements between the Contracting States

(1) Nothing in this Convention shall be construed as limiting the right of some or all of the Contracting States to conclude special agreements on any matters concerning European patent applications or European patents which under this Convention are subject to and governed by national law, such as, in particular,

(a) an agreement establishing a European patent court common to the Contracting States party to it;

(b) an agreement establishing an entity common to the Contracting States party to it to deliver, at the request of national courts or quasi-judicial authorities, opinions on issues of European or harmonised national patent law;

(c) an agreement under which the Contracting States party to it dispense fully or in part with translations of European patents under Article 65;

(d) an agreement under which the Contracting States party to it provide that translations of European patents as required under Article 65 may be filed with, and published by, the European Patent Office.

(2) The Administrative Council shall be competent to decide that:

(a) the members of the Boards of Appeal or the Enlarged Board of Appeal may serve on a European patent court or a common entity and take part in proceedings before that court or entity in accordance with any such agreement;

(b) the European Patent Office shall provide a common entity with such support staff, premises and equipment as may be necessary for the performance of its duties, and the expenses incurred by that entity shall be borne fully or in part by the Organisation.

76. Spremeni se 140. člen in se glasi:*140. člen*

Državni uporabni modeli in spričevala o koristnosti

Za uporabne modele in spričevala o koristnosti ter za prijave za uporabne modele in spričevala o koristnosti, ki so bile registrirane ali deponirane v državah pogodbenicah, katerih zakonodaja predvideva take modele ali spričevala, se uporabljajo 66., 124., 135., 137. in 139. člen.

77. Spremeni se 141. člen in se glasi:*141. člen*

Pristojbine za podaljšanje veljavnosti evropskega patenta

(1) Pristojbine za podaljšanje veljavnosti evropskega patenta se lahko naložijo le za leta, ki sledijo letu iz drugega odstavka 86. člena.

(2) Pristojbine za podaljšanje veljavnosti, ki zapadejo v plačilo v dveh mesecih po objavi omembe o podelitvi evropskega patenta, se štejejo za veljavno plačane, če so bile plačane v tem času. Dodatna pristojbina, predvidena po domačem pravu, se ne zaračunava.

78. Po 149. členu se vstavi novi 149.a člen, ki se glasi:*149.a člen*

Drugi sporazumi med državami pogodbenicami

(1) Nič v tej konvenciji se ne razlaga kot omejevanje pravice nekaterih ali vseh držav pogodbenic, da sklepajo posebne sporazume o katerih koli zadevah v zvezi z evropskimi patentnimi prijavi ali evropskimi patenti, ki jih po tej konvenciji ureja domače pravo, zlasti:

(a) sporazum, s katerim se ustanavlja evropsko patentno sodišče, skupno državam pogodbenicam, ki so pogodbenice tega sporazuma;

(b) sporazum, s katerim se ustanavlja subjekt, skupen državam pogodbenicam, ki so pogodbenice tega sporazuma, ki naj na zahtevo državnih sodišč ali sodiščem podobnih organov daje mnenja o vprašanjih evropskega ali usklajenega domačega patentnega prava;

(c) sporazum, po katerem se države pogodbenice, ki so pogodbenice tega sporazuma, popolnoma ali delno odpovejo prevodom evropskih patentov po 65. členu;

(d) sporazum, po katerem države pogodbenice, ki so pogodbenice tega sporazuma, določijo, da se prevodi evropskih patentov, kot se zahtevajo po 65. členu, lahko vložijo pri Evropskem patentnem uradu in da jih ta lahko objavi.

(2) Upravni svet je pristojen, da odloči:

(a) da so člani pritožbenih senatov ali razširjenega pritožbenega senata lahko člani evropskega patentnega sodišča ali skupnega subjekta in da sodelujejo v postopkih pri tem sodišču ali subjektu v skladu z vsakim takim sporazumom;

(b) da Evropski patentni urad zagotovi skupni subjekt s takim osebjem, prostori in opremo, kot so potrebni za izvajanje njegovih nalog, in da stroške tega subjekta nosi v celoti ali delno Organizacija.

79. Part X of the Convention shall be amended to read as follows:

PART X
INTERNATIONAL APPLICATIONS UNDER THE PATENT
COOPERATION TREATY –
EURO-PCT APPLICATIONS

Article 150

Application of the Patent Cooperation Treaty

(1) The Patent Cooperation Treaty of 19 June 1970, hereinafter referred to as the PCT, shall be applied in accordance with the provisions of this Part.

(2) International applications filed under the PCT may be the subject of proceedings before the European Patent Office. In such proceedings, the provisions of the PCT and its Regulations shall be applied, supplemented by the provisions of this Convention. In case of conflict, the provisions of the PCT or its Regulations shall prevail.

Article 151

The European Patent Office as a receiving Office

The European Patent Office shall act as a receiving Office within the meaning of the PCT, in accordance with the Implementing Regulations. Article 75, paragraph 2, shall apply mutatis mutandis.

Article 152

The European Patent Office as
an International Searching Authority or
International Preliminary Examining Authority

The European Patent Office shall act as an International Searching Authority and International Preliminary Examining Authority within the meaning of the PCT, in accordance with an agreement between the Organisation and the International Bureau of the World Intellectual Property Organization, for applicants who are residents or nationals of a Contracting State to this Convention. This agreement may provide that the European Patent Office shall also act for other applicants.

Article 153

The European Patent Office as designated Office or
elected Office

(1) The European Patent Office shall be

(a) a designated Office for any Contracting State to this Convention in respect of which the PCT is in force, which is designated in the international application and for which the applicant wishes to obtain a European patent, and

(b) an elected Office, if the applicant has elected a State designated pursuant to (a).

(2) An international application for which the European Patent Office is a designated or elected Office, and which has been accorded an international date of filing, shall be equivalent to a regular European application (Euro-PCT application).

(3) The international publication of a Euro-PCT application in one of the official languages of the European Patent Office shall take the place of the publication of the European patent application and shall be mentioned in the European Patent Bulletin.

(4) If the Euro-PCT application is published in another language, a translation into one of the official languages shall be filed with the European Patent Office, which shall publish it. Subject to Article 67, paragraph 3, the provisional protection under Article 67, paragraphs 1 and 2, shall be effective from the date of that publication.

79. Spremeni se X. del te konvencije in se glasi:

X. DEL
MEDNARODNE PRIJAVE PO POGODBI O
SODELOVANJU NA PODROČJU PATENTOV –
PRIJAVE EURO-PCT

150. člen

Uporaba Pogodbe o sodelovanju na področju patentov

(1) Pogodba o sodelovanju na področju patentov z dne 19. junija 1970, v nadaljevanju imenovana PCT, se uporablja v skladu z določbami tega dela.

(2) Mednarodne prijave, vložene po PCT, so lahko predmet postopka pri Evropskem patentnem uradu. V takih postopkih se uporabljajo določbe PCT in njenega pravilnika, dopolnjene z določbami te konvencije. Ob neskladju prevladajo določbe PCT ali njenega pravilnika.

151. člen

Evropski patentni urad kot prejemni urad

Evropski patentni urad je prejemni urad v smislu PCT v skladu s pravilnikom o izvajanju. Drugi odstavek 75. člena se uporablja smiselno.

152. člen

Evropski patentni urad kot organ za
mednarodno poizvedbo ali organ za
mednarodni predhodni preizkus

Za prijavitelje, ki imajo stalno prebivališče v državi pogodbenici te konvencije ali so njeni državljani, Evropski patentni urad deluje kot organ za mednarodno poizvedbo in organ za mednarodni predhodni preizkus v smislu PCT v skladu s sporazumom med Organizacijo in Mednarodnim uradom Svetovne organizacije za intelektualno lastnino. Ta sporazum lahko določa, da Evropski patentni urad deluje tudi za druge prijavitelje.

153. člen

Evropski patentni urad kot imenovani ali
izbrani urad

(1) Evropski patentni urad je:

(a) imenovani urad za katero koli državo pogodbenico te konvencije, za katero velja PCT in ki je imenovana v mednarodni prijavi ter za katero prijavitelj želi pridobiti evropski patent, in

(b) izbrani urad, če je prijavitelj izbral državo, imenovano na podlagi pododstavka (a).

(2) Mednarodna prijava, za katero je Evropski patentni urad imenovani ali izbrani urad in ki ji je bil dodeljen mednarodni datum vložitve prijave, je enakovredna redni evropski prijavi (prijavi Euro-PCT).

(3) Mednarodna objava prijave Euro-PCT v enem od uradnih jezikov Evropskega patentnega urada nadomesti objavo evropske patentne prijave in se omeni v Evropskem patentnem biltenu.

(4) Če je prijava Euro-PCT objavljena v drugem jeziku, se vloží prevod v enem od uradnih jezikov pri Evropskem patentnem uradu in ta ga objavi. Ob upoštevanju tretjega odstavka 67. člena začasno varstvo po prvem in drugem odstavku 67. člena velja od datuma te objave.

(5) The Euro-PCT application shall be treated as a European patent application and shall be considered as comprised in the state of the art under Article 54, paragraph 3, if the conditions laid down in paragraph 3 or 4 and in the Implementing Regulations are fulfilled.

(6) The international search report drawn up in respect of a Euro-PCT application or the declaration replacing it, and their international publication, shall take the place of the European search report and the mention of its publication in the European Patent Bulletin.

(7) A supplementary European search report shall be drawn up in respect of any Euro-PCT application under paragraph 5. The Administrative Council may decide that the supplementary search report is to be dispensed with or that the search fee is to be reduced.

80. Articles 154, 155, 156, 157, 158, 159, 160, 161, 162 and 163 shall be deleted.

81. Article 164 shall be amended to read as follows:

Article 164

Implementing Regulations and Protocols

(1) The Implementing Regulations, the Protocol on Recognition, the Protocol on Privileges and Immunities, the Protocol on Centralisation, the Protocol on the Interpretation of Article 69 and the Protocol on the Staff Complement shall be integral parts of this Convention.

(2) In case of conflict between the provisions of this Convention and those of the Implementing Regulations, the provisions of this Convention shall prevail.

82. Article 167 shall be deleted.

**ARTICLE 2
PROTOCOLS**

1. The Protocol on the Interpretation of Article 69 EPC shall be amended to read as follows:

**PROTOCOL
ON THE INTERPRETATION OF ARTICLE 69**

Article 1

General principles

Article 69 should not be interpreted in the sense that the extent of the protection conferred by a European patent is to be understood as that defined by the strict, literal meaning of the wording used in the claims, the description and drawings being employed only for the purpose of resolving an ambiguity found in the claims. Neither should it be interpreted in the sense that the claims serve only as a guideline and that the actual protection conferred may extend to what, from a consideration of the description and drawings by a person skilled in the art, the patentee has contemplated. On the contrary, it is to be interpreted as defining a position between these extremes which combines a fair protection for the patentee with a reasonable degree of certainty for third parties.

Article 2

Equivalents

For the purpose of determining the extent of protection conferred by a European patent, due account shall be taken of any element which is equivalent to an element specified in the claims.

(5) Prijava Euro-PCT se obravnava kot evropska patenta prijava in velja za obseženo v stanju tehnike po tretjem odstavku 54. člena, če so izpolnjeni pogoji, določeni v tretjem ali četrtem odstavku tega člena in v pravilniku o izvajanju.

(6) Mednarodno poročilo o poizvedbi, sestavljeno za prijavo Euro-PCT, ali izjava, ki ga nadomešča, in njuna mednarodna objava nadomestita evropsko poročilo o poizvedbi in omembo njegove objave v Evropskem patentnem biltenu.

(7) Dopolnilno evropsko poročilo o poizvedbi se sestavi za katero koli prijavo Euro-PCT po petem odstavku. Upravni svet lahko odloči, da se je mogoče odpovedati dopolnilnemu poročilu o poizvedbi ali da se zniža pristojbina za poizvedbo.

80. Črtajo se 154., 155., 156., 157., 158., 159., 160., 161., 162. in 163. člen.

81. Spremeni se 164. člen in se glasi:

164. člen

Pravilnik o izvajanju in protokoli

(1) Pravilnik o izvajanju, protokol o priznanju, protokol o privilegijih in imunitetah, protokol o centralizaciji, protokol o razlagi 69. člena in protokol o kadrovski zasedbi so sestavni deli te konvencije.

(2) Ob neskladju med določbami te konvencije in določbami pravilnika o izvajanju prevladajo določbe te konvencije.

82. Črta se 167. člen.

**2. ČLEN
PROTOKOLI**

1. Spremeni se Protokol o razlagi 69. člena Evropske patentne konvencije in se glasi:

**PROTOKOL
O RAZLAGI 69. ČLENA**

1. člen

Spolšna načela

69. člen se ne sme razlagati, kot da je obseg varstva, ki ga daje evropski patent, določen s strogim, dobesednim pomenom besedila iz patentnih zahtevkov, in da so opis in skice uporabljeni le za razrešitev nejasnosti v patentnih zahtevkih. Prav tako se ne sme razlagati, kot da patentni zahtevki rabijo le kot smernica in kot da se dejansko dano varstvo lahko razširi na tisto, za kar strokovnjak na podlagi proučitve opisa in skic meni, da je imetnik patenta želel zavarovati. Nasprotno, razlagati se mora, kot da določa položaj med tema skrajnostma, ki združuje primerno varstvo za imetnika patenta z razumno stopnjo zanesljivosti za tretje osebe.

2. člen

Enakovredni elementi

Pri določanju obsega varstva, ki ga zagotavlja evropski patent, je treba upoštevati vsak element, ki je enakovreden elementu, določenem v patentnih zahtevkih.

2. The following Protocol shall be annexed to the European Patent Convention as an integral part thereof:

**PROTOCOL
ON THE STAFF COMPLEMENT OF
THE EUROPEAN PATENT OFFICE AT THE HAGUE
(PROTOCOL ON THE STAFF COMPLEMENT)**

The European Patent Organisation shall ensure that the proportion of European Patent Office posts assigned to the duty station at The Hague as defined under the 2000 establishment plan and table of posts remains substantially unchanged. Any change in the number of posts assigned to the duty station at The Hague resulting in a deviation of more than ten per cent of that proportion, which proves necessary for the proper functioning of the European Patent Office, shall be subject to a decision by the Administrative Council of the Organisation on a proposal from the President of the European Patent Office after consultation with the Governments of the Federal Republic of Germany and the Kingdom of the Netherlands.

3. Section I of the Protocol on Centralisation shall be amended to read as follows:

**PROTOCOL
ON THE CENTRALISATION OF THE EUROPEAN
PATENT SYSTEM AND ON ITS INTRODUCTION
(PROTOCOL ON CENTRALISATION)**

Section I

(1)(a) Upon entry into force of the Convention, States parties thereto which are also members of the International Patent Institute set up by the Hague Agreement of 6 June 1947 shall take all necessary steps to ensure the transfer to the European Patent Office, no later than the date referred to in Article 162, paragraph 1, of the Convention, of all assets and liabilities and all staff members of the International Patent Institute. Such transfer shall be effected by an agreement between the International Patent Institute and the European Patent Organisation. The above States and the other States parties to the Convention shall take all necessary steps to ensure that that agreement shall be implemented no later than the date referred to in Article 162, paragraph 1, of the Convention. Upon implementation of the agreement, those Member States of the International Patent Institute which are also parties to the Convention further undertake to terminate their participation in the Hague Agreement.

(b) The States parties to the Convention shall take all necessary steps to ensure that all the assets and liabilities and all the staff members of the International Patent Institute are taken into the European Patent Office in accordance with the agreement referred to in sub-paragraph (a). After the implementation of that agreement the tasks incumbent upon the International Patent Institute at the date on which the Convention is opened for signature, and in particular those carried out vis-a-vis its Member States, whether or not they become parties to the Convention, and such tasks as it has undertaken at the time of the entry into force of the Convention to carry out vis-a-vis States which, at that date, are both members of the International Patent Institute and parties to the Convention, shall be assumed by the European Patent Office. In addition, the Administrative Council of the European Patent Organisation may allocate further duties in the field of searching to the European Patent Office.

2. Evropski patentni konvenciji se kot njen sestavni del doda naslednji protokol:

**PROTOKOL
O KADROVSKI ZASEDBI
EVROPSKEGA PATENTNEGA URADA V HAAGU
(PROTOKOL O KADROVSKI ZASEDBI)**

Evropska patentna organizacija zagotovi, da delež delovnih mest Evropskega patentnega urada, dodeljenih službeni izpostavi v Haagu, kot ga določata zaposlitveni načrt 2000 in seznam delovnih mest, ostane bistveno nespremenjen. O vsaki spremembi v številu delovnih mest, dodeljenih službeni izpostavi v Haagu, ki povzroči več kot 10-odstotno razliko v tem deležu in je potrebna za ustrezno delovanje Evropskega patentnega urada, odloča upravni svet Organizacije na predlog predsednika Evropskega patentnega urada po posvetu z vladama Zvezne republike Nemčije in Kraljevine Nizozemske.

3. Spremeni se I. oddelek protokola o centralizaciji in se glasi:

**PROTOKOL
O CENTRALIZACIJI IN UVAJANJU EVROPSKEGA
PATENTNEGA SISTEMA
(PROTOKOL O CENTRALIZACIJI)**

I. oddelek

(1)(a) Po uveljavitvi konvencije države pogodbenice, ki so tudi članice Mednarodnega patentnega inštituta, ustanovljenega s Haaškim sporazumom z dne 6. junija 1947, storijo vse potrebno, da se najpozneje z datumom, na katerega se sklicuje prvi odstavek 162. člena konvencije, zagotovi prenos vseh sredstev in obveznosti in vsega osebja Mednarodnega patentnega inštituta na Evropski patentni urad. Prenos se opravi na podlagi sporazuma med Mednarodnim patentnim inštitutom in Evropsko patentno organizacijo. Prej omenjene države in druge države pogodbenice konvencije storijo vse potrebno, da se najpozneje z datumom, na katerega se sklicuje prvi odstavek 162. člena konvencije, ta sporazum začne izvajati. Po uveljavitvi sporazuma se tiste države članice Mednarodnega patentnega inštituta, ki so tudi pogodbenice konvencije, zavežejo, da bodo prenehale sodelovati v Haaškem sporazumu.

(b) Države pogodbenice konvencije storijo vse potrebno, da Evropski patentni urad v skladu s sporazumom iz pododstavka (a) prevzame vsa sredstva in obveznosti in vse osebje Mednarodnega patentnega inštituta. Po uveljavitvi tega sporazuma Evropski patentni urad prevzame naloge, ki jih ima Mednarodni patentni inštitut na datum, s katerim je konvencija na voljo za podpis, zlasti tiste, ki jih izvaja za svoje države članice ne glede na to, ali te postanejo članice konvencije ali ne, in tiste naloge, ki se jih je, ko je konvencija začela veljati, obvezal izvajati za države, ki so na ta datum članice Mednarodnega patentnega inštituta in pogodbenice konvencije. Poleg tega lahko upravni svet Evropske patentne organizacije dodeli Evropskemu patentnemu uradu tudi druge naloge s področja proizvodnje.

(c) The above obligations shall also apply mutatis mutandis to the sub-office set up under the Hague Agreement under the conditions set out in the agreement between the International Patent Institute and the Government of the Contracting State concerned. This Government hereby undertakes to make a new agreement with the European Patent Organisation in place of the one already made with the International Patent Institute to harmonise the clauses concerning the organisation, operation and financing of the sub-office with the provisions of this Protocol.

(2) Subject to the provisions of Section III, the States parties to the Convention shall, on behalf of their central industrial property offices, renounce in favour of the European Patent Office any activities as International Searching Authorities under the Patent Cooperation Treaty as from the date referred to in Article 162, paragraph 1, of the Convention.

(3)(a) A sub-office of the European Patent Office shall be set up in Berlin as from the date referred to in Article 162, paragraph 1, of the Convention. It shall operate under the direction of the branch at The Hague.

(b) The Administrative Council shall determine the duties to be allocated to the sub-office in Berlin in the light of general considerations and of the requirements of the European Patent Office.

(c) At least at the beginning of the period following the progressive expansion of the field of activity of the European Patent Office, the amount of work assigned to that sub-office shall be sufficient to enable the examining staff of the Berlin Annex of the German Patent Office, as it stands at the date on which the Convention is opened for signature, to be fully employed.

(d) The Federal Republic of Germany shall bear any additional costs incurred by the European Patent Organisation in setting up and maintaining the sub-office in Berlin.

ARTICLE 3 NEW TEXT OF THE CONVENTION

(1) The Administrative Council of the European Patent Organisation is hereby authorised to draw up, at the proposal of the President of the European Patent Office, a new text of the European Patent Convention. In the new text, the wording of the provisions of the Convention shall be aligned, where necessary, in the three official languages. The provisions of the Convention may also be renumbered consecutively and the references to other provisions of the Convention may be amended in accordance with the new numbering.

(2) The Administrative Council shall adopt the new text of the Convention by a majority of three quarters of the Contracting States represented and voting. On its adoption, the new text of the Convention shall become an integral part of this Revision Act.

ARTICLE 4 SIGNATURE AND RATIFICATION

(1) This Revision Act shall be open for signature by the Contracting States at the European Patent Office in Munich until 1 September 2001.

(2) This Revision Act shall be subject to ratification; instruments of ratification shall be deposited with the Government of the Federal Republic of Germany.

ARTICLE 5 ACCESSION

(1) This Revision Act shall be open, until its entry into force, to accession by the Contracting States to the Convention and the States which ratify the Convention or accede thereto.

(c) Omenjene obveznosti se smiselno uporabljajo za izpostavo, ustanovljeno po Haaškem sporazumu po pogojih, določenih v sporazumu med Mednarodnim patentnim inštitutom in vlado zadevne države pogodbenice. Ta vlada se s tem zaveže, da bo z Evropsko patentno organizacijo sklenila nov sporazum, ki bo nadomestil tistega, ki je bil že sklenjen z Mednarodnim patentnim inštitutom, da uskladi določbe glede organizacije, delovanja in financiranja izpostave s tem protokolom.

(2) Ob upoštevanju določb III. oddelka se države pogodbenice konvencije z datumom, na katerega se sklicuje prvi odstavek 162. člena konvencije, v imenu svojih osrednjih uradov za industrijsko lastnino odpovedo v korist Evropskega patentnega urada vsem dejavnostim, ki bi jih opravljale kot mednarodne ustanove za poizvedbo po Pogodbi o sodelovanju na področju patentov.

(3)(a) Izpostava Evropskega patentnega urada se z datumom, na katerega se sklicuje prvi odstavek 162. člena konvencije, ustanovi v Berlinu. Deluje po navodilih podružnice v Haagu.

(b) Upravni svet določi naloge, ki se dodelijo izpostavi v Berlinu, z vidika splošne ocene in zahtev Evropskega patentnega urada.

(c) Vsaj na začetku obdobja, ki sledi postopni širitvi področja dejavnosti Evropskega patentnega urada, mora obseg dela, dodeljenega izpostavi, zadoščati za polno zaposlitev preizkuševalskega osebja berlinske enote nemškega patentnega urada, kakršna je na datum, ko je konvencija na voljo za podpis.

(d) Zvezna republika Nemčija nosi vse dodatne stroške, ki jih ima Evropska patentna organizacija z ustanovitvijo in vzdrževanjem izpostave v Berlinu.

3. ČLEN NOVO BESEDILO KONVENCIJE

(1) Upravni svet Evropske patentne organizacije je s tem pooblaščen, da na predlog predsednika Evropskega patentnega urada sestavi novo besedilo Evropske patentne konvencije. V novem besedilu bodo določbe konvencije predstavljene vzporedno, kjer je treba, v treh uradnih jezikih. Določbe konvencije se lahko tudi ponovno zaporedno oštevilčijo, skladno z novim oštevilčenjem pa se lahko spremenijo tudi napotila na druge določbe konvencije.

(2) Upravni svet sprejme novo besedilo konvencije s tričetrtinsko večino držav pogodbenic, ki so zastopane in glasujejo. Ob sprejetju postane novo besedilo konvencije sestavni del tega revizijskega akta.

4. ČLEN PODPIS IN RATIFIKACIJA

(1) Ta revizijski akt je na voljo za podpis za države pogodbenice do 1. septembra 2001 na Evropskem patentnem uradu v Münchnu.

(2) Revizijski akt je treba ratificirati; listine o ratifikaciji se deponirajo pri vladi Zvezne republike Nemčije.

5. ČLEN PRISTOP

(1) K temu revizijskemu aktu lahko, dokler ne začne veljati, pristopijo države pogodbenice konvencije in države, ki ratificirajo konvencijo ali k njej pristopijo.

(2) Instruments of accession shall be deposited with the Government of the Federal Republic of Germany.

**ARTICLE 6
PROVISIONAL APPLICATION**

Article 1, items 4-6 and 12-15, Article 2, items 2 and 3 and Articles 3 and 7 of this Revision Act shall be applied provisionally.

**ARTICLE 7
TRANSITIONAL PROVISIONS**

(1) The revised version of the Convention shall apply to all European patent applications filed after its entry into force, as well as to all patents granted in respect of such applications. It shall not apply to European patents already granted at the time of its entry into force, or to European patent applications pending at that time, unless otherwise decided by the Administrative Council of the European Patent Organisation.

(2) The Administrative Council of the European Patent Organisation shall take a decision under paragraph 1 no later than 30 June 2001, by a majority of three quarters of the Contracting States represented and voting. Such decision shall become an integral part of this Revision Act.

**ARTICLE 8
ENTRY INTO FORCE**

(1) The revised text of the European Patent Convention shall enter into force two years after the fifteenth Contracting State has deposited its instrument of ratification or accession, or on the first day of the third month following the deposit of the instrument of ratification or accession by the Contracting State taking this step as the last of all the Contracting States, if this takes place earlier.

(2) Upon entry into force of the revised text of the Convention, the text valid until that time shall cease to apply.

**ARTICLE 9
TRANSMISSION AND NOTIFICATIONS**

(1) The Government of the Federal Republic of Germany shall draw up certified true copies of this Revision Act and shall transmit them to the governments of the Contracting States and of the States able to accede to the European Patent Convention under Article 166, paragraph 1.

(2) The Government of the Federal Republic of Germany shall notify the governments referred to in paragraph 1 concerning:

- (a) the deposit of any instrument of ratification or accession;
- (b) the date of entry into force of this Revision Act.

IN WITNESS WHEREOF, the Plenipotentiaries authorised thereto, having presented their Full Powers, found to be in good and due form, have signed this Revision Act.

DONE at Munich this twenty-ninth day of November two thousand in a single original in the English, French and German languages, the three texts being equally authentic. This original text shall be deposited in the archives of the Federal Republic of Germany.

(2) Listine o pristopu se deponirajo pri vladi Zvezne republike Nemčije.

**6. ČLEN
ZAČASNA UPORABA**

4. do 6. in 12. do 15. točka 1. člena, 2. in 3. točka 2. člena ter 3. in 7. člen tega revizijskega akta se uporabljajo začasno.

**7. ČLEN
PREHODNE DOLOČBE**

(1) Spremenjena različica konvencije se uporablja za vse evropske patentne prijave, vložene po začetku njene veljavnosti, kot tudi za vse patente, podeljene v zvezi s takimi prijavi. Ne uporablja pa se za evropske patente, ki so bili že podeljeni, ko je začela veljati, ali za evropske patentne prijave, ki tedaj še niso bile rešene, razen če upravni svet ali Evropska patentna organizacija odločita drugače.

(2) Upravni svet Evropske patentne organizacije sprejme odločitev po prvem odstavku najpozneje 30. junija 2001 s tričetrtinsko večino držav pogodbenic, ki so zastopane in glasujejo. Tak sklep postane sestavni del tega revizijskega akta.

**8. ČLEN
ZAČETEK VELJAVNOSTI**

(1) Spremenjeno besedilo Evropske patentne konvencije začne veljati dve leti po tem, ko je petnajsta država pogodbenica deponirala listino o ratifikaciji ali pristopu, ali prvi dan tretjega meseca po deponiranju listine o ratifikaciji ali pristopu države pogodbenice, ki je kot zadnja od vseh držav pogodbenic deponirala svojo listino, če se to zgodi prej.

(2) Po začetku veljavnosti spremenjenega besedila konvencije se do tedaj veljavno besedilo preneha uporabljati.

**9. ČLEN
POŠILJANJE IN URADNA OBVESTILA**

(1) Vlada Zvezne republike Nemčije sestavi overjene kopije tega revizijskega akta in jih pošlje vladam držav pogodbenic in držav, ki lahko pristopijo k Evropski patentni konvenciji po prvem odstavku 166. člena.

(2) Vlada Zvezne republike Nemčije uradno obvesti vlade iz prvega odstavka o:

- (a) vsakem deponiranju listine o ratifikaciji ali pristopu;
- (b) datumu začetka veljavnosti tega revizijskega akta.

V potrditev navedenega so imenovani pooblaščenca po predložitvi svojih pooblastil v pravilni in predpisani obliki podpisali ta revizijski akt.

Sestavljeno v Münchnu devetindvajsetega novembra leta dva tisoč v enem izvorniku v angleškem, francoskem in nemškem jeziku, pri čemer so vsa tri besedila enako verodostojna. Izvirno besedilo se hrani v arhivu Zvezne republike Nemčije.

3. člen

Za izvajanje obveznosti iz naslova članstva v Konvenciji o podeljevanju evropskih patentov skrbi Ministrstvo za gospodarstvo – Urad Republike Slovenije za intelektualno lastnino.

4. člen

Z dnem uveljavitve Konvencije o podeljevanju evropskih patentov za Republiko Slovenijo se za evropske patentne prijave, za katere je bila vložena zahteva za razširitev evropskega patenta na Republiko Slovenijo pred dnevom uveljavitve, in za vsak patent, podeljen na podlagi takšne prijave, uporabljajo še naprej naslednje uredbe:

- Uredba o ratifikaciji Sporazuma o sodelovanju na področju patentov med Vlado Republike Slovenije in Evropsko patentno organizacijo (Uradni list RS-MP, št. 15/93),
- Uredba o ratifikaciji Sporazuma o izvajanju tretjega odstavka 3. člena Sporazuma o sodelovanju na področju patentov med Vlado Republike Slovenije in Evropsko patentno organizacijo (Uradni list RS-MP, št. 2/94),
- Uredba o razširitvi evropskih patentov na Republiko Slovenijo (Uradni list RS, št. 15/02).

5. člen

Ta zakon začne veljati naslednji dan po objavi v Uradnem listu RS – Mednarodne pogodbe.

Št. 318-01/02-15/1
Ljubljana, dne 9. julija 2002

Predsednik
Državnega zbora
Republike Slovenije
Borut Pahor l. r.

– Obvestilo o začetku veljavnosti mednarodne pogodbe

OBVESTILO
o začetku veljavnosti mednarodne pogodbe

Dne 19. junija 2002 je začel veljati Sporazum med Vlado Republike Slovenije in Vlado Republike Bolgarije o sodelovanju v boju proti organiziranemu kriminalu, nezakoniti trgovini s prepovedanimi drogami, psihotropnimi snovmi in predhodnimi sestavinami, terorizmu in drugim hujšim kaznivim dejanjem, podpisan v Ljubljani 5. novembra 2001 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 7/02 (Uradni list RS, št. 25/02).

Ministrstvo za zunanje zadeve
Republike Slovenije

VSEBINA

66.	Zakon o ratifikaciji Konvencije o podeljevanju evropskih patentov (MKPEP)	773
-	Obvestilo o začetku veljavnosti mednarodne pogodbe	871

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