DECISION OF THE ADMINISTRATIVE COUNCIL
of 26 October 2012 amending Article 18 of its Rules
of Procedure

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Articles 13 and
33(2)(b) and (e) thereof,

Having regard to the Service Regulations for permanent employees of the European
Patent Office, and in particular Articles 2, 37 and 106 to 113 thereof,

HAS DECIDED AS FOLLOWS:

Article 1

Article 18 of the Rules of Procedure of the Administrative Council shall read as follows:

"Article 18

Specific provisions concerning the review and appeal procedures for Council decisions
[Title VIII (Settlement of disputes) of the Service Regulations for permanent employees
of the European Patent Office]

(1) The President of the European Patent Office shall draft an opinion for the Council on
the request for review.

(2) Taking into account the opinion referred to in paragraph 1, the Council, in accordance
with Article 109 of the Service Regulations for permanent employees of the European
Patent Office (hereinafter referred to as "the Service Regulations"): 
(a) shall decide whether the request for review is receivable and, if so,

(b) shall take a decision on the merits of the request for review.

(3) The decisions taken by the Council pursuant to paragraphs 2(a) and (b) shall be reasoned and shall constitute final decisions for the purposes of Article 13, paragraph 2 of the European Patent Convention and Article 113 of the Service Regulations (except in the cases defined in paragraph 4 below). They may be challenged by filing a complaint with the Administrative Tribunal of the International Labour Organization in accordance with Article 13, paragraph 1, of the European Patent Convention and Article 113 of the Service Regulations.

(4) Notwithstanding paragraph 3, and in accordance with Article 109, paragraph 6, of the Service Regulations, the decision taken by the Council on the outcome of the review shall not be a final decision for the purposes of Article 13, paragraph 2, of the European Patent Convention and Article 113 of the Service Regulations and may be challenged by internal appeal under the conditions laid down in Article 110 of the Service Regulations if:

(a) the decision relates to a dispute concerning an appointment by the Council, or

(b) the Council, following a request by the person concerned, to be formulated with the request for review, exceptionally decides so when deciding on the request for review.

In these cases, the Council shall take a final decision on the appeal, having due regard to the opinion of the Appeals Committee, in accordance with Article 110, paragraph 4, of the Service Regulations. Such final decision may be challenged by filing a complaint with the Administrative Tribunal of the International Labour Organization in accordance with Article 13, paragraph 1, of the European Patent Convention and Article 113 of the Service Regulations.

(5) The Appeals Committee shall deal with appeals against Council decisions in its composition pursuant to Article 111 of the Service Regulations.

(6) The Appeals Committee shall inform the Council without delay when it has received an appeal against a Council decision.
(7) The Office shall represent the Council in proceedings before the Appeals Committee, unless the Council decides otherwise in a particular case. In the latter event, the Council shall decide by whom it is to be represented and shall inform the President of the European Patent Office accordingly.

(8) If a request for review or an appeal is partly or fully withdrawn, or the appeal proceedings are stayed, the Council shall be informed without delay.

(9) The President of the European Patent Office shall represent the European Patent Organisation (Article 5, paragraph 3, of the European Patent Convention) in any proceedings before the Administrative Tribunal of the International Labour Organization in relation to decisions taken by the Council under paragraphs 2, 3 and 4, and shall forward a copy of the written submissions and the judgment to the Council.

(10) Correspondence for the Council for the purposes of this Article shall be addressed to the Council Secretariat, for submission to the Council by its Chairperson in accordance with Article 9, paragraph 2, of these Rules. Correspondence for the Appeals Committee shall be addressed direct to the Appeals Committee."

Article 2

This decision shall enter into force on 1 January 2013.

Done at Munich, 26 October 2012

For the Administrative Council
The Chairman

Jesper KONGSTAD