



**Europäische
Patent-
organisation**

Verwaltungsrat

**European
Patent
Organisation**

Administrative Council

**Organisation
européenne des
brevets**

Conseil d'administration

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SUBJECT:

Decision of the Administrative Council of 27 June 2024 laying down rules for appointing and reappointing, and extending the term of office of, the President of the European Patent Office

SUBMITTED BY:

Council Secretariat

ADDRESSEES:

Administrative Council

DECISION OF THE ADMINISTRATIVE COUNCIL
of 27 June 2024 laying down rules for appointing and reappointing,
and extending the term of office of, the President of the European Patent Office

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,
Having regard to the European Patent Convention, and in particular Article 11(1) thereof,
HAS DECIDED AS FOLLOWS:

Article 1

This decision lays down rules for appointing and reappointing, and extending the term of office of,
the President of the European Patent Office, as set out in Annex 1.

Article 2

This decision enters into force on 27 June 2024.

Done at Munich, 27 June 2024

For the Administrative Council
The Chairperson



Josef KRATOCHVÍL

Annex 1

RULES FOR APPOINTING AND REAPPOINTING, AND EXTENDING THE TERM OF OFFICE OF, THE PRESIDENT OF THE EUROPEAN PATENT OFFICE

Article 1

Term of office

- (1) The President of the European Patent Office shall be appointed for a term of office of five years and may be reappointed for subsequent terms of office of five years.
- (2) Where the Administrative Council finds it appropriate, a President's term of office may be extended for a period shorter than five years.

Article 2

Initiation of the procedure

- (1) At the latest 18 months before the term of office of the President is expected to come to an end, the Administrative Council shall, on a proposal by the Chairperson and after enquiring about the President's intentions, decide by a simple majority of the Contracting States represented and voting (Article 35(1) EPC):
 - (a) either to proceed, by applying Article 1, to the President's reappointment or an extension of the President's term of office at its subsequent meeting or
 - (b) to hold a selection procedure by applying Articles 3 to 5.
- (2) The decision under paragraph 1 shall be taken by secret ballot.
- (3) In the procedure initiated under paragraph 1(a), the decision on the President's reappointment or on the extension of the President's term of office shall be taken by a majority of three-quarters of the votes of the Contracting States represented and voting (Article 35(2) EPC).

Article 3

Eligibility criteria

To be eligible to participate in the selection procedure for appointment as President of the European Patent Office, candidates shall:

- (a) have the nationality of a Contracting State; and
- (b) be supported by the Contracting State of which they are a national.

Article 4

Vacancy notice

- (1) Following a decision to hold a selection procedure, the Administrative Council shall, on a proposal by its Chairperson, adopt a vacancy notice for the position of President of the European Patent Office as well as a provisional timeline for the selection procedure.

- (2) The vacancy notice shall contain the following information:
 - (a) a description of the duties and the responsibilities of the President of the European Patent Office;
 - (b) the term of office and the expected date for the eventually appointed candidate to take up their duties;
 - (c) a specification of the required diplomas or other qualifications, amount and nature of experience and language knowledge;
 - (d) the required content of the application file, including evidence of compliance with the eligibility criteria defined in Article 3;
 - (e) the deadline and contact details for submitting the application file.
- (3) The vacancy notice shall be published in the Official Journal and, subject to the Administrative Council's approval, in other media proposed by the Chairperson.
- (4) Applications shall be submitted:
 - (a) within two months of the date of publication of the notice in the Official Journal;
 - (b) in electronic format and in one of the official languages of the European Patent Office;
 - (c) to the Chairperson via the Council Secretariat.

Article 5

Procedure for appointment

- (1) Upon expiry of the application deadline, a review of all applications for compliance with the eligibility criteria defined in Article 3 shall be carried out by the Chairperson, with the support of the Council Secretariat.
- (2) A report on the eligibility review, together with the lists of candidates found eligible or non-eligible, shall subsequently be submitted by the Chairperson to the Council for approval. The application files of eligible candidates shall be translated into the other two official languages by the Office and forwarded to the delegations.
- (3) The Administrative Council may use external professional advice for further, complementary evaluation of all eligible candidates. While such complementary evaluation shall be shared with the delegations, it shall not result in any pre-selection of the eligible candidates.
- (4) The Administrative Council shall conduct the appointment procedure with a view to selecting candidates, on as wide a geographical basis as possible from among the nationals of the Contracting States, who possess the highest level of competence and integrity as well as having extensive practical experience.

- (5) Together with the report under paragraph 2, the Chairperson shall submit a timeline to the Council for adoption, outlining the further steps in the appointment procedure. This timeline shall specify whether the Council will conduct a hearing of the candidates and whether the voting on candidates will take place at the same meeting as the hearing or at a subsequent one.
- (6) If the Administrative Council decides to conduct a hearing of the candidates, it shall hear all the eligible candidates individually. It shall then deliberate on the basis of the application files, of the reports from the external advisers (where applicable under paragraph 3) and of the hearings, and decide on the appointment by voting in the following way:
 - (a) In the first and second rounds of voting, the delegations may vote for any eligible candidate.
 - (b) As from the second round of voting, the candidate receiving the fewest votes shall be eliminated; in the event of a tie for the least number of votes between two or more candidates, they shall be eliminated provided that at least one candidate remains.
 - (c) If, in one of the rounds of voting, an eligible candidate achieves a three-quarters majority (Article 35(2) EPC), they shall be appointed and the voting shall be concluded.
 - (d) If only one candidate remains following the eliminatory rounds of voting, without having achieved a three-quarters majority, a subsequent vote shall be taken to determine whether the remaining candidate achieves a three-quarters majority (Article 35(2) EPC).
 - (e) Abstentions shall be possible in all rounds of voting.
- (7) Should no eligible candidate receive a three-quarters majority (Article 35(2) EPC), the voting procedure under paragraph 6 shall be repeated at the same or at a later meeting unless the Council decides otherwise by a simple majority (Article 35(1) EPC).

Article 6

Employment contract

The Chairperson shall be mandated to negotiate with the appointed candidate the terms of their employment contract, on the basis of the framework contract for the President of the European Patent Office. The same shall apply to the reappointment or extension of the term of office of an incumbent President.

Article 7

Derogation from the procedure

In special cases, the Administrative Council may decide, by a three-quarters majority of the votes of the Contracting States represented and voting (Article 35(2) EPC), to derogate from these rules if it considers this justified.