



Social unrest at the EPO - and your role in it: The consequences of a vote in favour of the proposed strike regulations

safet.sula, friedrich.roedler,
jerome.debrulle, kveselinov,
roland.grossenbacher, skokkinos,
jkratochvil, ernst-ch, jko, matti.paets,
patricia.garcia-escudero, rauni.hagman,
ylapierre, john.alty, ssta,
ljiljana.kuterovac, miklos.bendzsel,

CentralSTCOM to: gerard.barrett, borghildur, mauro.masi,
Isabel.frommelt, rimvydas.naujokas,
Lex.Kaufhold, guntis.ramans, ekheng,
safet.emruli, godwin.warr,
guus.broesterhuizen, pfo, aadamczak,
leonor.trindade, gabor.varga, btotic,
susanne.sivborg, luka.novak,
lubos.knoth, silvia.rossi.ubm, habip.asan

29-05-2013 14:12

Sent by: **Colette Lefèvre**
Cc: President

Dear Sir/Madam,

Enclosed please find a letter entitled 'Social unrest at the EPO - and your role in it: The consequences of a vote in favour of the proposed strike regulations' with annex. With this we want to draw your attention to an escalation in the ongoing conflict between staff of the EPO and the President. The President stated his intention of taking changes to the Service Regulations regarding strikes and unauthorised absence to the June Council. In our analysis, delegations supporting that proposal risk reputational damage for their respective governments, which is why we offer opportunities for providing a more complete overview and for hearing your opinion on the current social climate at the EPO.

Yours sincerely,

for the Central Staff Committee

D. Radford (Chairman Central Staff Committee)
P. Bocking (Chairman Staff Committee Berlin)
I. Thanos (Chairman Staff Committee Munich)
J. Areso (Chairman Staff Committee The Hague)
J. Schaaf (Chairman Staff Committee Vienna)



SC13075cl with attachment.pdf

For the attention of the Heads of Member States' Delegations
in the European Patent Organisation

Social unrest at the EPO - and your role in it: The consequences of a vote in favour of the proposed strike regulations

Dear heads of member states' delegations in the European Patent
Organisation,

You confirmed your support of the President's HR Roadmap during
the last Administrative Council. Many of the principles and stated aims
therein are solid and would attract also the support of the Central Staff
Committee, *if* the subsequent consultation would be based on true
social dialogue. Here, from what we were able to observe of his
interactions with you, the President appears to have convinced you
that dialogue actually takes place. The HR Roadmap deals with
employment conditions that should be collectively agreed. In our
consultation-based system, that would require both a will for
convergence and **respect for the rule of law**.

What we observe instead is a **complete disregard** for statutory
consultation. The General Advisory Committee has been unilaterally
re-interpreted by the President and he completely disregards any
contrary opinion emanating from the statutory consultation process.
This shows contempt for the spirit of consultation and relevant case
law.

With the internal appeals reform he has, from our vantage point, de
jure and de facto closed the route to legal challenge of decisions
within a time-frame that is at all viable, never mind satisfying the
demands of the ECtHR.

This leaves only industrial actions for staff to signal their disagreement
with management decisions. The President is now proposing changes
to the Service Regulations, accompanied by strike regulations and
limitations to staff representatives' ability to act and communicate,
which significantly curtails staff's right of association and
representation.

Due to the extremely tight consultation time-frame - aimed merely at satisfying formal requirements - we enclose the document that has gone to the General Advisory Committee for opinion. If past performance is anything to go by, the President will disregard the opinion of the GAC and table the document as an AC document more or less as it stands.

Individually and on paper, several of the above steps taken may have looked reasonable to you. Compiling them in the light of the abusive and bad faith interpretation we are observing, we can state that your decisions in support of the President's initiatives have led to a total erosion of EPO staff's access to due process in labour relations. **The planned strike regulations are the last nail in the coffin.** When you compare them with what you are used to in your home countries with regards to the right to strike of civil servants, please consider that any limitations thereto in the national context are balanced by recourse to timely judicial review and collective tariff *agreements*.

If you were voting for that proposal, you would support a reform that is in breach of fundamental rights. This has, regrettably, not stopped you from either supporting the appeals reform or from remaining quiet when the investigation guidelines were put in place by the President. With a vote in support of the proposed strike regulations, your country would de facto opt out of an international convention to which it has subscribed, [ILO Convention 151](#), Article 5. This decision would need to be communicated to the Director General of ILO (Articles 12 to 14 of the Convention) for informing other signatories of that Convention and the Secretariat of the UN. Denouncing the Convention 151 exposes the signatories to a settlement of disputes procedure under Article 8 of the Convention.

Staff at the EPO are determined to **STOP** this most recent initiative of Mr Battistelli. SUEPO general assemblies at all four places of employment are pushing the Union committees for an escalation of actions, by externalising the debate and putting significantly more pressure on our decision makers - you. We regret that social relations at the EPO have sunk to this level, but there is a clear need to act with determination and not to let this deterioration in staff rights come to pass. Staff at all 4 sites were on strike yesterday. If the strike regulations were to be voted, **you can look forward to industrial action at unprecedented level**, which clearly would be noticed by the national offices, too.

As representatives of the member states, your voting and supervisory powers should be exercised under scrutiny of elected members of parliament, which is why SUEPO will now, in the build-up to the June Council, seek contact with governments and parliaments at national and European level to create awareness and draw attention to the risk of challenges at national and European court level of decisions supported by you, with the corresponding reputational risks for both the member states and the European Patent Organisation at stake.

Some delegations have in the past pointed out that they feel insufficiently informed prior to taking decisions in Council. We are available for explaining the shortcomings of the regulatory framework both by design and *in application*. We are happy to brief you in whatever way you prefer: telephone conversations, meetings in your office (we would be available for these in the two weeks preceding the June meeting of the Administrative

Council) or directly before the June Council if you were prepared to travel a day early. **Should you be contemplating to vote in favour of the strike regulations, you should do so in full knowledge of the full context, probable collateral damage and potential consequences.**

We will contact you to enquire whether you would like more information and how we could provide it in the format that is most convenient to you.

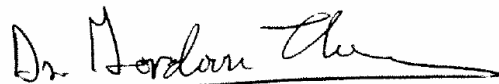
Yours sincerely,



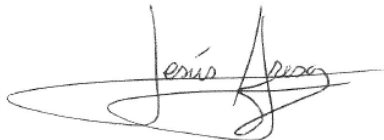
D. Radford
Chairman Central Staff Committee



P. Bocking
Chairman Staff Committee Berlin



I. Thanos
Chairman Staff Committee Munich



J. Areso
Chairman Staff Committee The Hague



J. Schaaf
Chairman Staff Committee Vienna

Copies to: Chairman of the Administrative Council
President of the EPO
Member states' delegations in the BFC (hard-copy by hand)

Enclosure: GAC/DOC 10/13 Strikes and unauthorised absence [emphasis added]

Mr E. Daintith
Chairman of the GAC
Room 8103

PschorrHöfe

re.: GAC/DOC 10/2013
Strikes and unauthorised absence


Dear Heads of member states' delegations,
This copy of the GAC-document has been highlighted, drawing your attention to the areas which we see as (highly) problematic. The highlighting is preliminary, does not claim to be exhaustive and is not intended to replace any opinion to be arrived at as the outcome of statutory consultation.
The main bone of contention is that the President feels he can *regulate* this at all, instead of seeking *agreement* with the social partner(s).
Your particular attention is drawn to the last two pages, the circular. This will, we presume, not be presented to the Council, but contains significant conflict potential and comes with notions which are incompatible with international conventions and ILO-AT case-law and, above all, can be changed by the President whenever he feels like it.

Dear Mr Daintith,

Please **find** attached GAC/DOC 10/2013.

The President requests the GAC to discuss the document and to deliver a reasoned opinion on 19 June 2013 at the latest.

Best regards,


J.-P. Robin

EUROPEAN PATENT OFFICE
DG 4

Munich, 21 May 2013

EXPLANATORY NOTE - GAC/DOC 10/2013

Subject : Strikes and unauthorised absence

1. Background

Deriving from the freedom of association (Article 30 ServRegs), the Office recognises and respects the right to strike. This right is nevertheless not absolute and its exercise has to be subject to minimum requirements.

The current **statutory framework** does not expressly provide for the right to strike and for the conditions to exercise this right.

As a further step towards providing a solid basis for **social dialogue** in the Office, it is proposed to provide for a clear **legal framework** in which this right may be exercised and to amend the regime for unauthorised absence, for harmonisation purposes.

2. Identification of the key principles

The following key principles regarding the right to strike have been identified in common practices in Europe and in most international organisations:

- **strike is a serious action and should be used only as a last resort**
- the possibility of calling a strike should be widely open (e.g. **Central and/or Local Staff Committees**, trade unions or groups of employees)
- a strike should be the outcome of a democratic decision process and must be supported by a representative and significant group of employees
- time needed to organise the strike should be treated as a cooling-off period to encourage discussion and de-escalation
- registration should be compulsory for the sake of security and transparency and to ensure the proper functioning of the Office
- the EPO is entitled to deduct remuneration for participation in a strike. Remuneration is due for service rendered. **A deduction of 1/20th of the monthly remuneration should apply for strike participation for a full working day.**

3. Proposed legal framework

In order to integrate these key principles in the EPO's legal framework, following adjustments are proposed:

- amendments to the ServRegs (Articles 30a, 63 and 65 ServRegs);
- introduction of a circular which specifies the implementation details.

3.1. Amendments to the ServRegs

It is proposed to introduce a new Article 30a ServRegs on the right to strike. This provision should be applicable to all employees, regardless of their appointing authority. It should enclose the following points:

- all employees have the right to strike (Art. 30a(1) ServRegs);
- definition of a strike as a collective and concerted work stoppage for a limited duration related to the conditions of employment, thereby drawing a clear distinction from other possible forms of industrial action (Art. 30a(2) ServRegs);
- acknowledgement of the right to call for strike for Staff Committee (Central or Local) for an association of employees or for a group of employees (Art. 30a(3) ServRegs);
- a vote by the employees is required before starting a strike (Art. 30a(4) ServRegs);
- a strike shall be notified in advance to the President of the Office (Art. 30a(5) ServRegs);
- all participating employees are obliged to inform the Office about their strike participation, otherwise they may risk that unauthorised absence is established (Art. 30a(6) ServRegs);
- the freedom to work of non-strikers shall be respected (Art. 30a(7) ServRegs);
- strike participation shall lead to a deduction of remuneration (Art. 30a(8) ServRegs);
- the President may also issue, with regard to all staff, requisition orders and take other appropriate measures to guarantee the minimum functioning of the Office, as well as the security of the staff and the Office's property (Art. 30a(9) ServRegs);
- further terms and conditions with regard to all employees, regardless of their appointing authority, may be laid down by the President of the Office (Art. 30a(10) ServRegs).

Furthermore, it is proposed to amend Article 65(1) ServRegs to introduce a deduction of remuneration at a rate of 1/20th of the monthly remuneration per strike participation in a working day.

Finally, it is proposed to amend Articles 63 and 65 ServRegs governing unauthorised absence and payment of remuneration accordingly for the purpose of harmonisation.

3.2 Introduction of a circular

It is proposed to introduce a circular to implement the principles laid down in the ServRegs.

Article 1 : scope and definition of a strike.

The right to strike is expressly recognised for all staff. As a result the employees on strike are covered by the protection granted by this right.

In line with Tribunal's case law the strike is defined as a collective and concerted work stoppage. A clear distinction from other industrial actions, which are not covered by the right to strike, is therefore made.

A strike has to be proportionate and is a last resort action. This is not only common place in members states and in international organisation, but also a basic element of the social dialogue.

Article 2 : call for a strike

As a parallel of the recognition of the right to strike, the possibility of calling a strike should be widely open (e.g. Central and/or Local Staff Committees, association of employees or a group of employees representing at least 10% of the staff).

Article 3 : start of a strike

Given that a strike is a serious matter potentially concerning the entire organisation, a democratic voting process is required before starting a strike.

Hence, to be valid, at least 50% of the employees entitled to vote shall participate in the ballot. And the decision to start the strike has to be approved by a majority of more than 50% of the voters.

The vote should be organised within one month by the office under the supervision of a committee composed of two employees designated by the President and two employees designated by the Central Staff Committee on an ad hoc basis. This should guarantee the fairness and transparency of the voting process.

Article 4 : prior notice and duration of a strike

A **prior notice** of a strike has to be given to the President **at least five working days** before the commencement of the strike action. The notice should also indicate which sites of the Office are concerned by the strike.

The time to organise the voting process and the prior notice should be seen together as a cooling-off period to encourage discussion and de-escalation on the topics at stake.

In order to ensure that the grounds of the strike are still relevant and actual, the duration of the strike is limited to one month. At the end of this period, a new strike can take place following a new vote, as regulated upon under the aforementioned provision.

Article 5 : declaration of participation in a strike

The very aim of a strike is to claim for social rights. It is therefore important for both parties to know to which extent the strike is supported. For the sake of security and to ensure the proper functioning of the Office, the Office has also to be informed of any absence of employees.

Employees participating in a strike shall inform their immediate superior and shall register via an electronic self-registration tool made available by the Office before or, at the latest, on the day of the strike. This also allows the employees participating in a strike to avoid being considered on unauthorised absence.

Article 6 : deduction of remuneration

The remuneration is due for service rendered. Therefore an organisation is entitled to make remuneration deductions for participation in a strike.

It is also entitled to adopt special rules on deductions for strike, which are different from the rules on absence from duty for other reasons. **A deduction at a rate of 1/20 of the monthly remuneration will apply.** This will waive as well any ambiguity concerning possible deductions for the weekend.

In view of the above, the present GAC/DOC 10/2013 is submitted to the GAC for opinion.

Željko Topić
Vice-President DG 4

CA/xx/13

Orig.: en

Munich, 17.05.2013

SUBJECT: Amendment of the Service Regulations concerning strikes and unauthorised absence

DRAWN UP BY: President of the European Patent Office

ADDRESSEES: Administrative Council (for decision)

SUMMARY

Deriving from the freedom of association, the Office recognises and respects its employees' right to strike. This right is nevertheless not absolute and its exercise has to be subject to minimum requirements. Those requirements shall serve to balance the interest of the service with the interest of the employees under consideration of the principle of proportionality. The right to strike is not currently regulated in the Service Regulations. Therefore, and as a further step towards providing a solid basis for social dialogue in the Office, it is proposed to provide for a clear legal framework in which this right may be exercised and to amend the regime for unauthorised absence, for harmonisation purposes.

TABLE OF CONTENTS

Subject	Page
I. STRATEGIC/OPERATIONAL	1
II. RECOMMENDATION	1
III. MAJORITY NEEDED	1
IV. CONTEXT	1
V. ARGUMENTS	1
VI. ALTERNATIVES	2
VII. FINANCIAL IMPLICATIONS	2
VIII. LEGAL BASIS	3
IX. DOCUMENTS CITED	3
X. RECOMMENDATION FOR PUBLICATION	3
ANNEX 1	8

I. STRATEGIC/OPERATIONAL

1. Operational.

II. RECOMMENDATION

2. The Administrative Council is requested to approve the draft decision set out in Part II below.

III. MAJORITY NEEDED

3. Three-quarters of the votes.

IV. CONTEXT

4. Based on Article 30 ServRegs, that provides for freedom of association, the Office recognises and respects its employees' right to strike.

5. However, the current statutory framework does not expressly provide for the right to strike and for the conditions to exercise this right. The Office has no collective agreements with the staff representation in place either.

6. Aspects such as registration of strike participation and deduction of remuneration have been regulated by the President and the administration in different administrative notes.

V. ARGUMENTS

7. Based on principles applied in many European countries, as well as acknowledged by the International Labour Organization, the right to strike may be subject to fulfilling certain minimum requirements. It is proposed to introduce in the Service Regulations a legal framework balancing the right to strike with the principles of sound organisation of the public service. This implies that, whilst respecting the right to strike, rules shall be set to ensure the minimum functioning of the Office, the respect of security and freedom and the self-determination of all employees.

8. For this purpose, a new Article 30a ServRegs shall be introduced that lays down the following principles which will be applicable to all employees, regardless of their appointing authority:
- definition of a strike as a collective and concerted work stoppage for a limited duration related to the conditions of employment, thereby drawing a clear distinction from other possible forms of industrial action;
 - acknowledgement of the right to call for strike for Staff Committee (Central or Local), for an association of employees or for a group of employees;
 - a vote by the employees is required before starting a strike;
 - a strike shall be notified in advance to the President of the Office;
 - all participating employees are obliged to inform the Office about their strike participation, otherwise they may risk that unauthorised absence is established;
 - strike participation shall lead to a deduction of remuneration;
 - the President may also issue, with regard to all staff, requisition orders and take other appropriate measures to guarantee the minimum functioning of the Office, as well as the security of the staff and the Office's property;
 - further terms and conditions with regard to all employees, regardless of their appointing authority, may be laid down by the President of the Office.
9. A deduction of remuneration at a rate of 1/20th of the monthly remuneration will apply per strike participation in a working day. Articles 63 and 65 ServRegs governing unauthorised absence and payment of remuneration will thus be amended accordingly for the purpose of harmonisation.

VI. ALTERNATIVES

10. None

VII. FINANCIAL IMPLICATIONS

11. None

VIII. LEGAL BASIS

12. Articles 10(2)(c) and 33(2)(b) EPC

IX. DOCUMENTS CITED

13. None

X. RECOMMENDATION FOR PUBLICATION

14. Yes

PART II

Draft

DECISION OF THE ADMINISTRATIVE COUNCIL
of [date of decision]
inserting an Article 30a and amending Articles 63
and 65 of the Service Regulations for permanent
employees of the European Patent Office.

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 10(2)(c) and Article 33(2)(b) thereof,

Having regard to the Service Regulations for permanent employees of the European Patent Office (hereinafter referred to as "the Service Regulations"), and in particular Article 63 and Article 65 thereof,

On a proposal from the President of the European Patent Office, submitted after consulting the General Advisory Committee,

HAS DECIDED AS FOLLOWS:

Article 1

The following new Article 30a of the Service Regulations shall be inserted:

"Article 30a

Right to strike

(1) All employees have the right to strike.

- (2) A strike is defined as a collective and concerted work stoppage for a limited duration related to the conditions of employment.
- (3) A Staff Committee, an association of employees or a group of employees may call for a strike.
- (4) The decision to start a strike shall be the result of a vote by the employees.
- (5) A strike shall be notified in advance to the President of the Office. The prior notice shall at least specify the grounds for having resort to the strike, the scope, the beginning and the duration of the strike.
- (6) Employees shall inform the Office about their participation in the strike.
- (7) The freedom to work of non-strikers shall be respected.
- (8) Strike participation shall lead to a deduction of remuneration.
- (9) The President may take any appropriate measures, including requisitioning of employees, to guarantee the minimum functioning of the Office as well as the security of the Office's employees and property.
- (10) The President of the Office may lay down further terms and conditions, including the maximum duration and the voting process, for the application of this Article to all employees.

Article 2

Article 63(1) of the Service Regulations shall be amended to read as follows:

"(1) Except in case of incapacity to work due to sickness or accident, a permanent employee may not be absent without prior permission from his immediate superior. Any unauthorised absence which is duly established shall lead to a deduction of the remuneration of the permanent employee concerned, pursuant to Article 65(1)(d)."

Article 3

Article 65(1) of the Service Regulations shall be amended to read as follows:

"(1) (a) Payment of remuneration to employees shall be made at the end of each month for which it is due.

(b) Where remuneration is not payable in respect of a complete month, the monthly amount shall be divided into thirtieths and

- where the actual number of days for which pay is due is fifteen or less, the number of thirtieths payable shall equal the actual number of days for which pay is due;

- where the actual number of days for which pay is due is more than fifteen the number of thirtieths payable shall equal the difference between the actual number of days for which pay is not due and thirty.

(c) Notwithstanding the provisions of paragraph 1(b), where remuneration is not payable in respect of a complete month due to the participation in a strike, the monthly amount shall be divided into twentieths for establishing the due deduction for each day of strike on a working day.

(d) Notwithstanding the provisions of paragraph 1(b), where remuneration is not payable in respect of a complete month due to an unauthorised absence, the monthly amount shall be divided into twentieths for establishing the due deduction for each day of unauthorised absence on a working day.

(e) Where entitlement to any of the allowances provided for in Article 67 commences at or after the date of entering the service, the employee shall receive such allowance as from the first day of the month in which such entitlement commences, provided that any request for the allowance is submitted within six months of the date on which entitlement commences, unless otherwise provided in these Regulations. If an allowance is requested after expiry of the above six-month period, it shall be granted retroactively but only for the six months preceding the month in which the request was submitted, except in a duly substantiated case of force majeure. On cessation of such entitlement the employee shall receive the sum due up to the last day of the month in which entitlement ceases.

(f) All permanent employees in receipt of an allowance shall inform the President of the Office immediately in writing of any change which may affect their entitlement to that allowance."

Article 4

This decision shall enter into force on 1 July 2013.

Done at Munich, [date of decision]

For the Administrative Council
The Chairman

Jesper KONGSTAD

ANNEX 1

Existing text	New text
	<p style="text-align: center;">Article 30a</p> <p style="text-align: center;">Right to strike</p> <p>(1) All employees have the right to strike.</p> <p>(2) A strike is defined as a collective and concerted work stoppage for a limited duration related to the conditions of employment.</p> <p>(3) A Staff Committee, an association of employees or a group of employees may call for a strike.</p> <p>(4) The decision to start a strike shall be the result of a vote by the employees.</p> <p>(5) A strike shall be notified in advance to the President of the Office. The prior notice shall at least specify the grounds for having resort to the strike, the scope, the beginning and the duration of the strike.</p> <p>(6) Employees shall inform the Office about their participation in the strike.</p> <p>(7) The freedom to work of non-strikers shall be respected.</p> <p>(8) Strike participation shall lead to a deduction of remuneration.</p>

<p style="text-align: center;">Article 63</p> <p style="text-align: center;">Unauthorised absence</p> <p>(1) Except in case of incapacity to work due to sickness or accident, a permanent employee may not be absent without prior permission from his immediate superior. Any unauthorised absence which is duly established shall be deducted from the annual leave of the permanent employee concerned. If he has used up his annual leave, he shall forfeit his remuneration for an equivalent period.</p> <p style="text-align: center;">Article 65</p> <p style="text-align: center;">Payment of remuneration</p> <p>(1) (a) Payment of remuneration to employees shall be made at the end of each month for which it is due.</p> <p>(b) Where remuneration is not payable in respect of a complete month, the monthly amount shall be divided into thirtieths and</p>	<p>(9) The President may take any appropriate measures, including requisitioning of employees, to guarantee the minimum functioning of the Office as well as the security of the Office's employees and property.</p> <p>(10) The President of the Office may lay down further terms and conditions, including the maximum duration and the voting process, for the application of this Article to all employees.</p> <p style="text-align: center;">Article 63</p> <p style="text-align: center;">Unauthorised absence</p> <p>(1) Except in case of incapacity to work due to sickness or accident, a permanent employee may not be absent without prior permission from his immediate superior. Any unauthorised absence which is duly established shall be deducted from the annual leave of the permanent employee concerned. If he has used up his annual leave, he shall forfeit his remuneration for an equivalent period lead to a deduction of remuneration of the permanent employee concerned, pursuant to Article 65(1)(d).</p> <p style="text-align: center;">Article 65</p> <p style="text-align: center;">Payment of remuneration</p> <p>(1) (a) Payment of remuneration to employees shall be made at the end of each month for which it is due.</p> <p>(b) Where remuneration is not payable in respect of a complete month, the monthly amount shall be divided into thirtieths and</p>
---	---

<p>- where the actual number of days for which pay due is fifteen or less, the number of thirtieths payable shall equal the actual number of days for which pay is due;</p> <p>- where the actual number of days for which pay is due is more than fifteen the number of thirtieths payable shall equal the difference between the actual number of days for which pay is not due and thirty.</p>	<p>- where the actual number of days for which pay is due is fifteen or less, the number of thirtieths payable shall equal the actual number of days for which pay is due;</p> <p>- where the actual number of days for which pay is due is more than fifteen the number of thirtieths payable shall equal the difference between the actual number of days for which pay is not due and thirty.</p> <p>(c) Notwithstanding the provisions of paragraph 1(b), where remuneration is not payable in respect of a complete month due to the participation in a strike, the monthly amount shall be divided into twentieths for establishing the due deduction for each day of strike on a working day.</p> <p>(d) Notwithstanding the provisions of paragraph 1(b),, where remuneration is not payable in respect of a complete month due to an unauthorised absence, the monthly amount shall be divided into twentieths for establishing the due deduction for each day of unauthorised absence on a working day.</p>
---	---

<p>(c) Where entitlement to any of the allowances provided for in Article 67 commences at or after the date of entering the service, the employee shall receive such allowance as from the first day of the month in which such entitlement commences, provided that any request for the allowance is submitted within six months of the date on which entitlement commences, unless otherwise provided in these Regulations. If an allowance is requested after expiry of the above six-month period, it shall be granted retroactively but only for the six months preceding the month in which the request was submitted, except in a duly substantiated case of force majeure. On cessation of such entitlement the employee shall receive the sum due up to the last day of the month in which entitlement ceases.</p> <p>(d) All permanent employees in receipt of an allowance shall inform the President of the Office immediately in writing of any change which may affect their entitlement to that allowance.</p>	<p>(e) (e) Where entitlement to any of the allowances provided for in Article 67 commences at or after the date of entering the service, the employee shall receive such allowance as from the first day of the month in which such entitlement commences, provided that any request for the allowance is submitted within six months of the date on which entitlement commences, unless otherwise provided in these Regulations. If an allowance is requested after expiry of the above six-month period, it shall be granted retroactively but only for the six months preceding the month in which the request was submitted, except in a duly substantiated case of force majeure. On cessation of such entitlement the employee shall receive the sum due up to the last day of the month in which entitlement ceases.</p> <p>(e) (f) All permanent employees in receipt of an allowance shall inform the President of the Office immediately in writing of any change which may affect their entitlement to that allowance.</p>
---	---

CIRCULAR ON STRIKES

The President of the European Patent Office;

Having regard to the European Patent Convention, and in particular Article 10 thereof;

Having regard to the Service Regulations for permanent employees of the European Patent Office, and notably Articles 30, 30a, 63 and 65 thereof;

Having consulted the General Advisory Committee;

Recognising the right to strike, whilst having regard to the need for specific terms and conditions for its exercise in order to ensure a proper functioning of the Office;

Has decided as follows:

Guidelines applicable in the event of strike

1. Scope and definition of a strike

A strike as defined in Article 30a(1) of the Service Regulations should be a proportionate action of last resort.

Industrial actions which are not a collective and concerted work stoppage, such as go-slow or work-to-rule actions, shall not be considered as a strike.

The protection granted by the right to strike does not apply to employees participating in industrial actions other than a strike.

2. Call for a strike

A Staff Committee (Central Staff Committee or a local section), an association of employees or a group of employees representing at least 10% of all employees may decide to call for a strike.

3. Start of a strike

The start of a strike shall be the result of a vote by the active employees either office-wide or at sites concerned by the strike which has been called for.

The voting process shall be organised by the Office within one month following the call for strike. The voters' confidentiality shall be guaranteed. Employees not able to vote personally shall have the possibility to vote by proxy. An employee can be given only one proxy vote.

The voting process shall be supervised by a committee composed of two employees designated by the President and two employees designated by the Central Staff Committee on an ad hoc basis.

To be valid, at least 50% of the employees entitled to vote shall participate in the ballot. The decision to start the strike has to be approved by a majority of more than 50% of the voters.

4. Prior notice and duration of a strike

Pursuant to Article 30a(5) of the Service Regulations, prior notice of a strike shall be given to the President at least five working days before the commencement of the strike action.

As regards the scope of the strike, the notice shall indicate which sites of the Office are concerned.

The duration of the strike shall not exceed one month. Beyond this maximum duration, any new strike shall be organised in compliance with Article 30a of the Service Regulations.

5. Declaration of participation in a strike

Employees participating in a strike shall inform their immediate superior and shall register via an electronic self-registration tool made available by the Office. The immediate superior will have access to the self-registration tool.

The registration shall occur before or, at the latest, on the day of the strike.

Employees may be considered on unauthorised absence within the meaning of Article 63 of the Service Regulations if they were not at their workplace

during a strike action, did not register and did not inform their immediate superior of their absence from work.

6. Deduction of remuneration

For each working day during which an employee participated in a strike, the Office will apply a deduction of the monthly remuneration, in accordance with Article 65(1)(c) of the Service Regulations.

For participation in a strike for more than four hours in a single working day, the Office will apply a deduction of 1/20th of the monthly remuneration.

For participation in a strike for four hours or less in a single working day, the Office will apply a deduction of 1/40th of the monthly remuneration.

For staff working part-time, the deduction will be adjusted proportionally.

The basis for calculating the deduction is the remuneration defined in Article 64(2) of the Service Regulations.

A strike participant remains covered by the social security scheme during strike and therefore continues to contribute in full to the scheme.

7. Entry into force

This decision shall enter into force on 1 July 2013.