

## Relocation of authorities: European Court leaves Haar

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Flags of European countries fly in the wind in front of the European Patent Office in Erhardtstraße.

(Photo: Florian Peljak)

The Boards of Appeal of the European Patent Office are expected to move back to the centre of Munich after a few years on the periphery. Their officials are still unfamiliar with the suburban community.

Haar sees itself as a cosmopolitan municipality on the outskirts of Munich and on the streets you meet people with briefcases who speak perfect English and French. This is because the municipality has been a top address for lawyers from all over Europe for three years. Since 2017, the municipality of 20,000 inhabitants has been home to the highest jurisdiction of the European Patent Office (EPO). Haar plays in the European league, so to speak, and as the seat of an independent EPO authority, it is even formally on a par with Munich and The Hague. But that could soon be over: The top lawyers are to work and dispense justice in Munich again. There are organisational reasons behind this. But many staff members are still struggling with Haar.

EPO President António Campinos and the President of the Boards of Appeal, Carl Josefsson, who has his office in Haar-Eglfing near the railway station, have now announced the expected move in a joint statement. Together, they have submitted a proposal to the member states of the European Patent Organisation to move the unit back to the centre of Munich, they say. The reason given is the trend towards digitalisation and teleworking, which would allow more efficient use of EPO office buildings.

EPO President Campinos is holding out the prospect of a move to the Pschorrhöfe on the Hackerbrücke. These are close to the main railway station and easy to reach for an international audience, they say.

Campinos also says, however, that "the more central location within Munich would be very much appreciated" and thus also describes the mood among the staff. When it became known in 2017 that the highly-paid lawyers were to move to a Munich suburb, the uproar was great. Many felt that they were being punitively transferred. That is now being corrected. And Haar is losing more of its international flair after the pharmaceutical company MSD moved away.

In the corridors of the Boards of Appeal in the "Eight in one" office complex, disputed patent cases have been dealt with for the past three years as if in an international court of law. The Patent Organisation comprises even more countries than the European Union. In addition to the EU states, Great Britain is also a member, as well as Northern Macedonia, Serbia and Turkey. The EPO and the Boards of Appeal have a total of 38 member states, whose representatives have yet to approve the move to Munich in March 2022. With their groundbreaking case law, the Boards of Appeal in particular have an impact on the patent system throughout the world, as their President Josefsson once said.

### **Lawyers discussed the "hair-splitting" question of whether the municipality belongs in a row with Munich and The Hague as a location**

But this self-image was also ballast for Haar. Not only did many authority staff feel that the relocation from the headquarters at the Deutsches Museum in Munich to Haar was a punishment; the court location in Haar also almost turned into a legal own goal for the Patent Office. In fact, in 2019, shrewd lawyers tried to overturn a decision of the boards of appeal in a case about a disputed technical detail function of a mobile phone standard by challenging the court location in Haar. They argued that Haar, unlike Munich and The Hague, was not listed as an EPO location in Article 6 of the European Patent Convention. Therefore, oral proceedings in Haar were not admissible. The ability of the Boards of Appeal to act was even temporarily in question because of Haar.

This dispute, which a Hamburg patent law firm meticulously documented under the heading "splitting hairs", not least because of the internal squabbles at the Patent Office, then went too far for the EPO lawyers. The Enlarged Board of Appeal, which is also based in Haar, was the last instance to rule in July 2019 that the indication "Munich" did not imply a restriction to the city limits. This is a compliment for the [district of Munich](#), which at least formally meets the highest European legal standards. For the decision was based on the fact that "Munich" for the "European Patent Office and its organs also includes properties in the greater Munich area, at least in the administrative district of Munich".

In Haar, people are probably not only sad about the end of the excursion to Europe. Although it brought a certain cosmopolitanism to the municipality, it did not bring the much-needed trade tax revenue with its courtrooms, which admittedly occupied large and prominently located office space near the railway station. Mayor Andreas Bukowski (CSU) just complained again that there were hardly any realistic prospects for high-quality vacant commercial space in Haar. Now, in addition to the MSD building, a new office will soon be built at the former EPO headquarters. Next tenant wanted.