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Munich, 6.10.2017

SUBJECT: Modernisation of the employment framework of the EPO

SUBMITTED BY: President of the European Patent Office

ADDRESSEES: 1. Budget and Finance Committee (for opinion)
2. Administrative Council (for decision)

SUMMARY

As part of the EPO's efficiency strategy and in order to ensure its long-term sustainability, the present document proposes amendments to the service regulation in order to allow a more flexible management of the EPO's workforce.

This reform is based on three main pillars:

- introducing more flexibility in the employment structure through fixed term appointments with unlimited possibility of extension
 - harmonisation of conditions of employment applicable to employees on fixed term employment and guarantees upon contract expiry
 - simplification of the recruitment procedure
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PART I

I. STRATEGIC/OPERATIONAL

1. Operational

II. RECOMMENDATION

2. The Administrative Council is requested to approve the proposed amendments to the Service Regulations set out in Part II of this document.

III. MAJORITY NEEDED

3. Three-quarters of the votes

IV. CONTEXT

4. The social and financial studies published in September 2016, after six years of intensive reforms, provided a comprehensive and overall a very positive picture of the situation of the European Patent Office, with some areas for improvement. The Office's main strengths were depicted as stemming from, inter alia: increase in revenue and annual growth exceeding expectations, the prospect of overcoming the structural deficit in the long run, and dynamism of the core business (productivity, quality and timeliness). On the social front, the EPO was described as an attractive employer, offering a social package above benchmark and a legal framework comparing favourably to national and international social frameworks.
5. More importantly, the studies underlined one of the key success factors: the capacity to introduce significant reforms and to implement them successfully, although there is room for improvement in terms of communication and change management.
6. For the future, however, the positive prognosis of the studies concerning financial independence relies on the capacity of the Office to maintain high performance and to prepare for and adapt to possible changes in the environment in which it operates (e.g. fluctuations in incoming workload, ongoing digitalisation of business models, pressure from competing global patent systems, cost structure, quality requirements and labour standards).

7. In the orientation paper presented to the Administrative Council in December 2016 (CA/102/16), improving flexibility in the workforce planning and employment structure was identified as one of the levers to minimise risk for the EPO and guarantee its long-term financial and social sustainability.
8. In this regard, the current rigid employment structure, not aligned with the situation at comparable national or international organisations, appears to limit the EPO's responsiveness to external structural changes impacting its business model and the business needs of different technical fields.
9. National patent offices and international organisations (IO) have long since introduced the possibility of recruiting at least a significant part of their staff on a fixed term basis. Fixed term employment now constitutes 30 to 45% of IO staffing on average (31.3% at WIPO in 2016, see WIPO Social Report 2016, WO/CC/74/2, 31% at EUIPO).
10. At the EPO, the currently applicable rules limit the percentage of employees on contracts to 5% of the workforce. This places the EPO in a unique situation. Additionally, employees on fixed term appointments are mainly vice-presidents, principal directors and members and chairmen of the Boards of Appeal (see CA/55/17, Social Report 2016, p. 18), which means that only 3% of non-managerial/BoA posts are occupied by contractors.
11. In addition to this major managerial drawback, the current rules are also extremely costly: they do not allow employees to be retained after termination of their contract, which cannot be renewed even once beyond the term (extensions are limited to 3 to 5 years, non-renewable contracts prohibit the re-employment of the contractor for one year). Considering the investment needed in training in some areas, this may represent a substantial waste of resources. It is also not an optimum performance management environment if staff has no prospect of staying at the Office at the end of their contract.
12. From a social perspective, substantial differences of treatment exist between employees on permanent basis and fixed term basis (leave, social leave, coverage in case of sickness, pensions).

13. Finally, rigid and formalistic recruitment procedures have a great bearing on agility in workforce management, on resources absorbed in the recruitment procedures and on the image of the Office (bureaucratic recruitment process, delays in answering applicants because the procedure needs to be completed before they can be informed, limitations on flexibly recruiting suitable candidates from previous recruitment procedures, etc.). It takes an average of 9 to 12 months between launching the recruitment procedure and the selected staff member actually starting work at the Office.
14. This is why the modernisation of the EPO's framework for recruitment and employment appears to be a top priority.

V. ARGUMENTS

15. The proposed amendments to the regulations aim at increasing the flexibility of the employment structure to support efficient workforce planning and the continuity and adaptability of the EPO's public service mission, while maintaining an attractive package and ensuring harmonisation of employment conditions and specific guarantees for employees appointed on a fixed term basis.

A. INCREASED FLEXIBILITY OF THE EMPLOYMENT STRUCTURE

16. It is proposed to integrate in the Service Regulations extended possibilities for recruiting employees on fixed-term basis. The limit of 5% of total staff for employees on contract is abolished, while the possibility of appointing employees on a permanent basis is maintained in the interests of the service.
17. Depending on the business needs (technical field, difficulty of recruiting in specific technical fields or certain profiles/experience, anticipated activity fluctuations, budgetary availabilities, etc.), recruitment may be made on a fixed-term basis, starting from some months (to cover temporary absences or short-term missions) and up to 5 years.
18. Studies and surveys have shown a pattern of reduction of motivation after about 6 years. The generous social package implies a high opportunity cost for staff to leave the EPO. The extension of the contract period will be the opportunity for both employee and employer to express their mutual motivation and agreement to continue the employment relationship.

19. As the EPO's aim is to increase flexibility while attracting and retaining a motivated and high-performing workforce, the fixed-term contracts are to be extendable without time limitation, depending on business and organisational needs service rendered and performance.

B. HARMONISATION OF THE EMPLOYMENT CONDITIONS APPLICABLE TO EMPLOYEES AND GUARANTEES UPON CONTRACT EXPIRY

20. As a matter of principle, the benefits and conditions of employment (salary, social security, pension, leave) are harmonised for all employees, independently of their being appointed on a permanent or fixed-term basis, unless expressly specified otherwise in the regulations. The reasoning is that while increasing flexibility to the benefit of the Organisation, it is also fair to grant employees on contract the same generous social package applicable to permanent employees. In social terms, increased flexibility should not create second-class employees.

21. In concrete terms, this means that the rights and benefits of employees on fixed term basis are improved in the following fields. Regulations on leave are applicable to them under the same conditions as permanent employees (parental, family leave, etc.), with the exception of home leave (not existing, suppressed or existing under much less generous conditions in other IO: e.g. reimbursement of travel expenses but no additional days of leave or number of leave decreasing with length of employment). Social security and pension benefits are also aligned under the same conditions as for permanent employees.

22. Additionally, upon contract expiry, guarantees are offered to (former) employees:

- job loss indemnity (1 to 1.5 months of basic salary per year)
- extension of maternity coverage (salary and healthcare) in order to ensure continuity of treatment during the statutory maternity period
- possibility of extending the affiliation to the healthcare scheme for 12 months (with contributions being fully borne by the employee)

- prolongation of incapacity benefits upon medical assessment (financed by employee/employer contributions)
- long-term care coverage is maintained if the risk arises during the employment period.

C. SIMPLIFICATION OF THE RECRUITMENT PROCEDURE

23. The capacity to attract, recruit and retain employees with the highest standards of ability, efficiency and integrity in 160 different job profiles and in continuously adapting technical fields is key for the performance and long-term sustainability of the Organisation.
24. New generations are already used to fixed-term employment and are not afraid to change employer and/or jobs in their career. The number of applications remains extremely high at the EPO; in fact, the total number of applications received in 2016 for 230 vacancy notices (100 internal and 130 external) was 19 858 (see Social Report 2016, pages 22-23). However, the EPO's rules and procedures have to continuously adapt to external factors and competitive job markets.
25. Current rules lack flexibility and are not an efficient tool for facing up to new recruitment trends and serving business needs. A more flexible framework needs to be proposed, while maintaining fundamental guarantees befitting the EPO as an international public service organisation.
26. General recruitment criteria already exist in the Service Regulations:
 - securing employees' highest standards: recruitment based on ability and on the broadest geographical basis, prohibition of discrimination (Art. 5 ServRegs)
 - recruitment criteria (Art. 6): qualifications, competencies, professional experience, language knowledge
 - existence of selection procedure and principle of competition (Art. 7)
 - conditions for appointment (Art. 8)

27. These rules ensure that fundamental guarantees are respected for nationals of all member states, and they position the EPO as an equal opportunities employer.
28. However, Annex II to the Service Regulations adds procedural details which should normally be included in internal guidelines. This rigid structure has far-reaching consequences for:
 - the resources needed to organise recruitment procedures
 - timeliness (imposed deadlines)
 - the capacity to draw candidates from reserve lists
29. Recruitment is basically a managerial responsibility to be co-managed by the business unit concerned and HR services. To that respect, compulsory participation of staff representation (which is not a common practice among International Organisations, especially for fixed-term employment), represents an additional element of rigidity, in particular when such participation is misused to jeopardise the lawfulness and/or timeliness of the procedure and to form a basis for further costly litigation up to ILOAT level.
30. Some of these requirements may no longer appear to be in line with changes in society and the structure of the workforce outside the Office (e.g. the possibility of imposing age limitations).
31. It is therefore proposed to replace Annex II with recruitment guidelines adopted at circular level, in order to ensure regular adaptation, timeliness and flexibility in recruitment procedures.
32. In keeping with the general obligations of transparency, fairness, equal opportunities and equal treatment, the guidelines will also take into account the need for flexible and agile procedures, adapted to business needs and job market fluidity, e.g. procedural deadlines proportional to the duration of the contract, composition of the recruitment panel and involvement of HR services and managers, use of assessment centres, the possibility of resorting to external expertise, etc.

33. Overall the proposed document represents a balanced proposal meeting the flexibility required for the sound management of the operations and the maintenance of the EPO as an attractive employer
34. The effects of this reform will be subject to close monitoring and an assessment will be presented to the Administrative Council after three years of implementation

VI. ALTERNATIVES

35. None

VII. FINANCIAL IMPLICATIONS

36. The reform will not increase the overall headcount but should foster the general efficiency and performances of the Office and consequently have a positive impact on its financial situation and long term sustainability.

VIII. LEGAL BASIS

37. Articles 10(2)(c) and 33(2)b of the European Patent Convention. Service Regulations for permanent employees of the European Patent Office. Conditions of employment for contract staff at the European Patent Office.

IX. DOCUMENTS CITED

- 38.

X. RECOMMENDATION FOR PUBLICATION

39. Yes

PART II

Draft

DECISION OF THE ADMINISTRATIVE COUNCIL
of [date of decision]
on the modernisation of the employment framework
of the EPO

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

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

Having regard to the Service Regulations for permanent employees of the European Patent Office (hereinafter referred to as "the Service Regulations"), as well as the New Pension Scheme Regulations of the European Patent Office,

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

HAS DECIDED AS FOLLOWS:

I. Amendments to the Service Regulations

Article 1

The title "Service Regulations for permanent employees of the European Patent Office" shall be renamed "Service Regulations for permanent and other employees of the European Patent Office". All references in other rules issued pursuant to the Service Regulations shall be replaced accordingly.

The term "permanent employee" shall be replaced by "employee" in all Articles of the Service Regulations, whether in the single or plural form, except in:

- Article 1 (1) and (2);
- Article 41;
- Article 46 ;
- Article 71 V;
- Article 84 ; and
- Article 114.

Article 2

Paragraphs 5 and 7 of Article 1 of the Service Regulations shall read as follows:

"(5) These Service Regulations shall apply to the President and vice-presidents employed on contract unless their contract of employment expressly provides otherwise.

(7) These Service Regulations shall apply to other employees on fixed-term appointments, unless their letter of appointment expressly provides otherwise."

Article 3

Paragraph 2 of Article 2 shall read as follows:

"(2) All employees referred to in Article 1 may act under the same conditions as members or chairmen of the bodies defined in paragraph 1."

Article 4

Article 7 of the Service Regulations shall read as follows:

"(1) Appointment pursuant to the second or third indent of Article 4, paragraph 1, shall be by way of competition in accordance with a selection procedure laid down by the appointing authority. A competition may be held for the purpose of constituting a reserve for future recruitment.

A procedure other than that of competition may be adopted by the appointing authority for the recruitment or appointment of the senior employees referred to in Article 11 of the European Patent Convention (hereinafter referred to as "the Convention"), for principal directors and also, in exceptional cases, for recruitment to posts which require special qualifications.

(2) For each competition, the selection procedure shall result in a list of suitable candidates being drawn up, in accordance with the principles and rules listed in Articles 1a, 5 and 6. The appointing authority shall decide which of these candidates to appoint to the vacant post."

Article 5

Article 8 of the Service Regulations shall read as follows:

"Article 8 Appointment

"(1) Employees shall be recruited to the Office on a fixed-term basis. When the Office's interests so warrant, the appointing authority may decide to recruit an employee on a permanent basis.

(2) A fixed-term appointment shall be an appointment for a specified duration of up to 5 years. It may be extended by express mutual agreement. Fixed-term appointments shall not confer any right either to an extension or to conversion into permanent appointment.

(3) To be eligible for appointment as an employee, a candidate must fulfil the following requirements:

(a) he must be a national of one of the Contracting States, unless an exception is authorised by the appointing authority;

(b) he must enjoy his full rights as a citizen and produce satisfactory character references;

- (c) he must be free from any irregularity in his status under the recruiting laws applicable to him concerning military or comparable service;
 - (d) he must meet the medical requirements of the post;
 - (e) he must have the diplomas and qualifications or equivalent professional experience required;
 - (f) he must have sufficient language knowledge for performing the duties to which he is to be assigned.
- (4) Fixed-term appointments may be converted into permanent appointments under conditions laid down by the appointing authority, such as service needs, satisfactory performance, time in service and quotas."

Article 6

Paragraph 1 of Article 12 of the Service Regulations shall read as follows:

"(1) Instead of his usual duties, an employee may be called upon to perform temporarily the duties of another post, including the duties of a post in a higher job group, on a full time basis."

Article 7

Paragraphs 1, 2 4(b) and 7 of Article 13 of the Service Regulations shall read as follows:

"(1) Employees recruited for a fixed-term duration of more than 1 year shall serve a probationary period upon appointment pursuant to Article 4, paragraph 1, in order to determine their ability to perform their duties as well as their efficiency and conduct in the service.

(2) This period shall be:

- one year in case of recruitment or promotion; or
- six months in case of transfer or reassignment to different duties

(4) (b) A report on the probationer may be made at any time during the probationary period, if the fulfilment of his duties, his efficiency and his conduct are proving inadequate. On the basis of the probationary report or reports, the appointing authority may:

- dismiss a new recruit on probation,

- decide that the probationer who has been transferred, promoted or reassigned shall either return to his previous post or, if this has been filled, to a post corresponding to the grade of his previous post for which he satisfies the requirements.

(7) In case of promotion or transfer other than on the initiative of the appointing authority, an employee may, at any time during the probationary period, request to return to his previous post or, if this has been filled, to a post corresponding to the grade of his previous post for which he satisfies the requirements."

Article 8

The following new paragraph 3 shall be added to Article 42 of the Service Regulations:

"(3) Non-active status shall not extend the duration of a fixed-term appointment."

Article 9

The following new paragraph 2 shall be added to Article 50 of the Service Regulations:

"(2) Service on fixed-term appointment shall also terminate on the expiration date specified in the letter of appointment or any extension thereof."

Article 10

The titles "Section 1 Resignation" and "Section 2 Dismissal by the appointing authority" shall be deleted.

Article 11

Paragraphs 1, 3, 5 and 6 of Article 53 of the Service Regulations shall read as follows:

"(1) The appointing authority may decide to terminate the service of an employee:

(a) if the Contracting State of which the employee is a national ceases to be party to the Convention;

(b) if the employee refuses to be transferred to a country other than that in which he is serving;

(c) if in the case of an employee appointed by the Administrative Council in accordance with Article 11, paragraphs 1 and 2, of the Convention, the Administrative Council so decides in the interests of the Organisation;

- (d) who has been in continuous service for 1 year or less on a fixed-term appointment;
- (e) if as a result of his own actions, he ceases to fulfil the conditions laid down in Article 8, sub-paragraph (a) or (b);
- (f) in the other cases expressly provided for in these Service Regulations.

(3) Where the appointing authority is the President of the Office, he shall take his decision to terminate the service of an employee for one of the reasons provided for in paragraph 1 except for (d), after consulting the Joint Committee on Articles 52 and 53 in accordance with the procedure set out in Article 53b, except in the case of Article 13 or Article 46, paragraph 6, or where service has been terminated as a result of a disciplinary measure.

(5) An employee whose (i) service is terminated for one of the reasons set out in paragraph 1(a) to (c) or (ii) fixed-term appointment is not extended by the appointing authority, shall be entitled to receive the indemnity for loss of job provided for in paragraph 6 unless he was employed in his national administration before his appointment by the Office and is immediately reintegrated into that administration.

(6) The loss of job indemnity shall be : (i) 1 month's basic salary as set out in Annex III in respect of the first five years of continuous service, 1.25 month's basic salary in respect of the five following years of continuous service and 1.5 month's basic salary in respect of the remaining years of continuous service, (ii) together with, where appropriate, the household and dependant's allowance, (iii) multiplied by a coefficient representing the number of years' and fractions of years' service at the Office. The indemnity may not be more than the remuneration payable in respect of 24 months' service or the number of months remaining before the employee reaches the age of (i) 60 in case he has become eligible for a retirement pension under the Office's pension schemes, or (ii) 65 in case he has not become eligible for a retirement pension under the Office's pension schemes. The indemnity shall be paid to the employee on the date on which he leaves the Office and shall be calculated on the basis of the remuneration rates in force on that date."

Article 12

The title "Section 3 Retirement" shall be deleted.

Article 13

The title of Article 54 of the Service Regulations shall be renamed "Retirement".

Article 14

Paragraphs 1(b) and 2 of Article 54 of the Service Regulations shall read as follows:

"(b) Notwithstanding the provisions of paragraph (a), an employee may at his own request and only if the appointing authority considers it justified in the interest of the service, work after he has reached the age of sixty-five. This applies to members of the Boards within the meaning of Article 1, paragraph 4, provided that the Administrative Council, on a proposal of the President of the Office, appoints the member concerned pursuant to the first sentence of Article 11, paragraph 3, of the Convention with effect from the day following the last day of the month during which he reaches the age of sixty-five.

(2) An employee shall inform the Office in writing of the concrete date of commencement of his retirement and annual leave plans at least six months prior to the requested starting date of retirement. In the case of members of the Boards, the request under paragraph 1(b) should be made at least twelve months before the member reaches the age of sixty-five."

Article 15

Paragraph 1 of Article 60 of the Service Regulations shall read as follows:

"(1) Employees who (i) took up service with the Office before 1 January 2018, and (ii) are nationals of a Contracting State other than that in which they are employed, shall receive eight working days' additional leave every two years to return home. Travel expenses for such leave shall be reimbursed to the employee concerned under the conditions laid down in Article 77."

Article 16

The following new paragraph 2 shall be added to Article 61 of the Service Regulations:

"(2) Should a fixed-term appointment expire during the statutory period of maternity leave, it shall be automatically extended for the fixed duration necessary to bring the maternity leave to a maximum of 10 weeks after the birth of the child."

Article 17

The following new paragraph 2 shall be added to Article 61a of the Service Regulations:

"(2) Should a fixed-term appointment expire during the statutory period of adoption leave, it shall be automatically extended for the fixed duration necessary to bring the adoption leave to a maximum of 10 weeks after the date the child is recognized as dependent by the Office."

Article 18

The following new Article 61b shall be added to the Service Regulations:

"Article 61b End of leave entitlements

Unless expressly provided otherwise, leave entitlements shall cease upon expiry of a fixed-term appointment and be forfeited forthwith."

Article 19

The following new paragraph 12 shall be added to Article 62a of the Service Regulations:

"(12) Sick leave entitlements shall cease upon expiry of a fixed-term appointment."

Article 20

The title of Article 62b of the Service Regulations shall be renamed "Incapacity during service" and paragraphs 3 and 8 of the said Article shall read as follows:

- "(3) During a period of incapacity pursuant to this Article, the employee shall be entitled to
- (a) a proportion of his basic salary and of the allowances payable under Articles 68 and 72 equal to the time worked;
 - (b) 70% of the basic salary and of the allowances payable under Articles 68 and 72 payable at his grade and step for the time he is discharged from duties for reasons of incapacity, whereby the combination of (a) and (b) shall not result in an amount lower than 120% of basic salary at grade G1, step 4, unless this minimum would result in a basic salary higher than that payable if the employee were not prevented from performing his duties;
 - (c) his other allowances in full;
 - (d) annual leave in proportion to the time actually worked;
 - (e) home leave;
 - (f) full benefits under the social security scheme provided for under Title V, Chapter 2.

Contributions to the social security scheme shall be calculated on the basic salary which he would have received for normal full-time work.

(8) The incapacity of an employee pursuant to this Article shall end

(a) by decision of the President of the Office upon medical opinion concluding that the employee no longer meets the conditions for incapacity laid down in paragraph 1. In such case, he shall resume his duties or be charged with similar other duties;

(b) on termination of service according to Article 50, unless the employee becomes eligible to the incapacity cover provided for under Article 62c."

Article 21

The following new Article 62c shall be added to the Service Regulations:

"Article 62c Incapacity for fixed-term employees upon termination of service

(1) If a fixed-term employee has been on authorised absence for medical reasons when his service terminates, a medical opinion shall be sought to determine whether he fulfils the conditions of total incapacity: being totally unable to perform duties which correspond to his situation, his knowledge and his capabilities. In such case, the former employee shall be deemed on incapacity by decision of the President of the Office.

(2) The minimum degree of incapacity to qualify for total incapacity shall be 70%.

(3) A medical opinion assessing total incapacity shall be based on a medical examination of the employee concerned. The medical practitioner's conclusions shall indicate:

(a) the degree of incapacity, i.e. the extent to which the employee is unfit to work;

(b) the foreseen duration of incapacity;

(c) the date on which a new examination should take place;

(d) any suggestions as to specific measures which could be taken to improve the employee's state of health.

(4) During a period of incapacity, a former fixed-term employee shall be entitled to

- (a) 70% of the basic salary paid in respect of the last step the employee had reached in the last grade held by him. The amount may not, however, exceed the basic salary for grade G1, step 4;
- (b) full benefits under the social security scheme provided for under Title V, Chapter 2.
- (5) Contributions to the social security scheme shall be calculated on the basic salary which former employees would have received for normal full-time work.
- (6) A former employee's state of health shall be periodically reviewed in order to determine whether or not the conditions for incapacity laid down in paragraph 1 are still met and, if so, whether the proportion of incapacity and its duration should be adjusted.
- (7) The incapacity of a former fixed-term employee shall end
 - (a) by decision of the President of the Office upon medical opinion concluding that the former employee no longer meets the conditions for total incapacity laid down in paragraph 1; or
 - (b) upon completion of each 12-month period from termination of service, unless the President of the Office decides otherwise *inter alia* upon medical opinion concluding that the former employee continues to meet the conditions for total incapacity laid down in paragraph 1, and upon evidence of sources of income; or
 - (c) when the former employee starts drawing a pension, or
 - (d) in any event at the age of 65.
- (8) The total contribution required to meet payments under the incapacity cover, calculated by reference to the basic salary, shall be set by the President of the Office, on the basis of an actuarial study. One third of such contribution shall be charged to fixed-term employees."

Article 22

Paragraph 2 of Article 73 of the Service Regulations shall read as follows:

"(2) Subject to the provisions of paragraph 1 above, the installation allowance shall be payable from the employee's date of entry into service with the Office or of his transfer from one place of employment to another; however, the additional payments referred to in paragraph 1 shall be payable only where the spouse and dependent children have taken up residence at the place of employment and the employee concerned has, if applicable, satisfactorily completed the probationary period."

Article 23

The following new Article 83 shall be added to the Service Regulations:

"Article 83 Social security scheme

"(1) Employees shall be affiliated to the Office's social security and pension schemes. However, employees recruited on a fixed-term appointment of 2 years or less may instead, upon employment, opt for a the national social security and pension scheme of their place of employment when the national scheme so permits. In that case, the Office shall pay the appropriate employer's contributions to the national scheme. Provisions of the Service Regulations specific to the Office's own incapacity cover, social security and pension schemes shall not be applicable to employees who have opted for a national social security and pension scheme.

(2) In any event, employees shall automatically be affiliated to the Office's social security and pension schemes on the first day of their third year of continuous service. In such case, employees may continue to contribute to a national scheme on a voluntary basis and at their own expense."

Article 24

Former Article 83 of the Service Regulations shall become Article 83a and all references to "Article 83" in the Service Regulations shall be replaced by references to "Article 83a".

Paragraphs 2(a) and 2(b) of Article 83a of the Service Regulations shall read as follows:

"(2) (a) An employee whose service terminates for reasons other than retiring may, on request, continue to be insured as provided for in paragraph 1(a) provided he cannot draw benefits from another health cover. However the total contribution shall be borne by the then former employee.

(b) The request should be made before termination of service and the insurance may continue for (i) a maximum of twelve months or (ii) the duration of their fixed-term appointment for employees with continuous service of less than 1 year, unless the President of the Office, following an examination made by a medical practitioner designated by him, decides otherwise; in this case it must be established that the employee is suffering from a serious or protracted illness which was contracted before leaving the service and notified to the Office within six months of leaving."

Article 25

Former Article 83a of the Service Regulations shall become Article 83b and all references to "Article 83a" in the Service Regulations shall be replaced by references to "Article 83b".

The following new paragraph 2 shall be added to Article 83b of the Service Regulations:

"(2) In case the insured risk materialized before termination of service, payment of benefits under the long-term care insurance shall end : (i) when the beneficiary can draw benefits from another long-term care cover, or (ii) upon completion of each 12-month period from termination of service, unless the President of the Office decides otherwise *inter alia* upon medical opinion concluding that the beneficiary continues to meet the conditions of the long-term care insurance laid down in paragraph 1."

Article 26

The title of Article 84 of the Service Regulations shall be renamed "Death insurance for permanent employees" and paragraph 1 of the said Article shall read as follows:

"(1) The benefits payable shall be as follows:

- (a) a fixed amount for funeral expenses incurred for the permanent employee himself, his spouse and, where appropriate, his dependants under Articles 69 and 70;
- (b) in the event of death of the permanent employee: a lump sum equal to 2.75 times his annual basic salary calculated in accordance with the scale given in Annex III."

Article 27

The following new Article 84a shall be added to the Service Regulations:

"Article 84a Death insurance for fixed-term employees

"(1) The benefits payable shall be as follows:

- (a) a fixed amount for funeral expenses incurred for the employee himself, his spouse and, where appropriate, his dependants under Articles 69 and 70;
- (b) in the event of death of the employee: a lump sum equal to 2.75 times his annual basic salary calculated in accordance with the scale given in Annex III.

(2) The contribution which is required to meet the insurance for funeral expenses is included in the contribution provided for under Article 83a, paragraph 1.

(3) One third of the contribution, calculated by reference to the basic salary of the employee, which is required to meet the insurance of the risks under paragraph 1(b) shall be charged to the employee.

(4) A fixed-term employee who has been in the service of the Office for at least two years may on request continue to be insured after termination of service for a maximum of twelve months under the conditions provided for in paragraph 1(b) in the event of death and provided he cannot draw benefits from another death insurance. However, the total contribution shall be borne by the then former employee. The benefits payable will be calculated on the basic salary received at the moment of termination of his service. The request should be made before the termination of service."

Article 28

Annex 2 "Competitions" to the Service Regulations shall be deleted.

II. Amendments to the Implementing Rules

Article 29

All references to "Article 83" in the Implementing Rules shall be replaced by references to "Article 83a", and all references to "Article 83a" in the Implementing Rules shall be replaced by references to "Article 83b"

Article 30

Paragraph II.A(1)(a) of the Implementing Rules to Articles 83 and 84 of the Service Regulations shall read as follows:

"II. Death insurance (Article 84 and 84a of the Service Regulations)

A. Restrictions

The cover provided for in Articles 84 and 84a of the Service Regulations shall be subject to the following restrictions:

(a) In the event of suicide, the lump sum referred to in Articles 84 and 84a shall be payable only if the suicide takes place at least two years after the date on which the employee entered the service. However, this restriction shall not apply if the employee commits suicide while the balance of his mind is disturbed; the burden of proof in this respect shall lie with the beneficiaries."

Article 31

Paragraph I.A(1)(a) of the Implementing Rule to Article 65(3) of the Service Regulations shall read as follows:

"(1) Participation in the salary savings plan established by Article 65(3) of the Service Regulations ("the Plan") shall be compulsory for:

(a) employees and members of the Boards of Appeal and the Enlarged Board of Appeal, within the meaning of Article 1(2), (4) and (7) of the Service Regulations, and

(b) principal directors of the Office, within the meaning of Article 1(6) of the Service Regulations,

who take up their duties on or after 1 January 2009."

Article 32

The term "permanent employee" in the Implementing Rule to Article 83a of the Service Regulations, now renamed Article 83b, shall be replaced by "employee".

III. Amendment to New Pension Scheme Regulations and their Implementing Rules

Article 33

Paragraph 1 of Article 1 of the New Pension Scheme Regulations shall read as follows:

"Article 1 Scope

(1) The pension scheme established by these Regulations shall apply to the employees of the European Patent Office, hereinafter referred to as "the Office", within the meaning of Article 1 of the Service Regulations, unless their letter of appointment or contract of employment expressly provides otherwise."

Article 34

The term "permanent employee" in Rule 12.1/1 (vi)(b) of the Implementing Rules to the New Pension Scheme Regulations shall be replaced by "employee".

IV. Amendments to other regulations

Article 35

Conditions of employment for contract staff at the EPO shall be deleted.

Article 36

Conditions of employment for auxiliary staff of the EPO shall be deleted.

V. Entry into force and transitional provisions

Article 37

Employees subject to the Conditions for employment of contract staff at the European Patent Office, who are in service on 1 January 2018, shall be offered the option to be subject to the new framework and become fixed-term employees for the remainder of the duration of their contract. Such option shall be available until 30 June 2018. Such employees who do not become fixed-term employees shall remain, for the remainder of the duration of their contract, subject to the Conditions for employment of contract staff at the European Patent Office and to Service Regulations applicable to them, as in force on 31 December 2017.

Article 38

The President of the Office shall take appropriate measures to ensure a smooth implementation of the decision. He shall in particular review the remainder of the regulatory framework of the Office and make such changes as are necessary as a result of the present decision, in particular corrections of references to provisions amended by the present decision.

Article 39

This decision shall enter into force on 1 January 2018.

Done at Munich, [date of decision]

For the Administrative Council
The Chairman

Christoph ERNST