

CA/82/16

Orig.: en

Munich, 07.10.2016

SUBJECT: Proposal for the lease of the building 8inOne,
Richard-Reitzner-Allee 8 in Munich/Haar for the BOA

SUBMITTED BY: President of the European Patent Office

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

SUMMARY

The structural reform of the Boards of Appeal (BOA) aims to increase their organisational and managerial autonomy, the perception of their independence and also their efficiency, in order to respect the principle of effective legal protection within the current legal framework of the European Patent Convention (EPC). The Administrative Council has approved the proposals presented by the Office for the Reform of the BOA at its June 2016 meeting. One pillar of the approved reform was the relocation of the BOA in a separate building, including the recommendation to submit a precise proposal for the renting of a building in Munich area to the Budget and Finance Committee (BFC). The President of the Office proposes to rent a part of the building 8inOne, Richard-Reitzner-Allee 8 in Munich/Haar. The lease is foreseen to be concluded with a duration of 15 years which results in a yearly rent of 1.730.830 EUR and ancillary costs estimated at EUR 533.880. Additional investments of EUR 6.7 million for BOA specific building adaptations are required, to be carried out by the landlord on behalf of the EPO.

This proposal contains two elements:

- The Budget and Finance Committee (BFC) is requested to give a favourable opinion to the lease of the building 8inOne, Richard-Reitzner-Allee 8 in Munich/Haar for the Boards of Appeal (BOA).

- a -

- On the basis of the Budget and Finance Committee's opinion on the financial aspects of the lease agreement, the Administrative Council is requested to authorise the President of the Office to sign the lease agreement in due course.

TABLE OF CONTENTS

Subject	Page
I. STRATEGIC/OPERATIONAL	1
II. RECOMMENDATION	1
III. MAJORITY NEEDED	1
IV. CONTEXT	1
V. ARGUMENTS	1
VI. ALTERNATIVES	3
VII. FINANCIAL IMPLICATIONS	3
VIII. LEGAL BASIS	4
IX. DOCUMENTS CITED	4
X. RECOMMENDATION FOR PUBLICATION	4
ANNEX 1 TENANT RELATED INVESTMENTS	5

I. STRATEGIC/OPERATIONAL

1. Strategic

II. RECOMMENDATION

2. The Budget and Finance Committee (BFC) is requested to give a favourable opinion to the lease of the building 8inOne, Richard-Reitzner-Allee 8 in Munich/Haar for the Boards of Appeal (BOA). On the basis of the Budget and Finance Committee's opinion on the financial aspects of the lease agreement, the Administrative Council will be requested to authorise the President of the Office to sign the lease agreement in due course.

III. MAJORITY NEEDED

3. Simple majority.

IV. CONTEXT

4. In the Administrative Council meeting in June 2016, the President of the Office presented document CA/43/16 which includes a comprehensive package of reforms of the EPO Boards of Appeal (BOA) containing different elements. The proposal was unanimously approved by the AC and published in the EPO website.
5. One of the elements contained in the proposal is the relocation of the BOA in a separate building. After a thorough consultation of internal and external stakeholders, the most appropriate solution was to relocate the BOA in the Munich area. With the approval of CA/43/16, the Office was requested to submit a precise proposal for the renting of a building in Munich to the Business and Finance Committee (BFC).

V. ARGUMENTS

6. Although the rental market for office space in Munich area is very tight and the range of rents for office space very large, the result of a comprehensive selection process led to an offer for the building 8inOne, Richard-Reitzner-Allee 8, Munich/Haar. Comparing the offer for this building with the highest offer received which was more than twice as high, it provides with the best ratio between a professional office standard, very good cost efficiency, reachability by staff and the customers and a representative value for the function of the BOA.

7. The landlord of 8inOne building is Versicherungskammer Bayern, a public insurance provider. Versicherungskammer Bayern is one of the top 10 direct insurers in Germany and received an A rating by Standard&Poors in 2015.
8. Since July 2016, a detailed accommodation planning has taken place, in close consultation with BOA. Different specific requirements subsequently submitted by the BOA could successfully be included in the offer. These additions to the initial offer were:
 - The professional set up of the big oral proceeding rooms as court rooms with a elevated bench, separate entrance for the judges, wooden panels and dedicated deliberation rooms.
 - Two additional court rooms compared to initial planning
 - Sufficient number of attorney rooms
 - Bigger reception area by usage of the main foyer of the building complex as entrance to the BOA part of the building
 - Additional space for BOA library
 - Additional parking places

These amendments sum up to an increase of approx. EUR 0,1 million in rent per year and approx. EUR 1,0 million in investment.

9. The final offer for the accommodation now foresees workplaces in the amount of the total number of posts budgeted for the BOA, which are 237. This leads to a workplace reserve of more than 10% compared to current staffing level. Furthermore, the 10 oral proceeding rooms provide for a calculated capacity of 2.500 hearing days p.a. Compared to the 1.600 hearing days p.a. planned in average in the years 2014/2015, this leaves reasonable room for a potential increase in workload.

10. In parallel, contractual and price negotiations have been conducted during the months of August and September, with the following results:

Rental surfaces and unitary prices:

- 11.016m² of office space: 12,20€/m²/month

- 665 m2 of storage space: 6,00€/m²/month
- 130 parking spaces: 45€/parking place/month

Ancillary costs will be invoiced at the end of the year against actual consumption and cost. Start of rent is planned for 01.08.17. This date will depend on the approval of the building permit which the landlord has to request from the local authorities with regard to the building adaptations.

VI. ALTERNATIVES

11. Other alternative sites and locations outside or inside Munich/Germany were already analysed before and finally Munich was considered the preferable option from multiple perspectives.

VII. FINANCIAL IMPLICATIONS

12. The proposed lease contract for 15 years includes a yearly rent of EUR 1.730.830 and ancillary costs of EUR 533.880, entailing a total budgetary impact for the whole duration of the contract of EUR 34 million.
13. In the course of the preparation of the building and in consultation with the BOA, special tenant-related measures will be carried out by the landlord specifically with the EPO in mind. These tenant investments include EPO specific building adaptations, special security installations, rooms for oral proceedings with translator booths, climatisation and IT installations. The costs of these adaptations are calculated at EUR 6.7 million (Detailed breakdown in **Annex 1**). The tenant-related works can only be carried out within the overall building works performed by the landlord.
14. The office space which will become vacant in Isar building represents a unique opportunity to physically reorganise and centralise some departments which are currently spread between Isar and PschorrHöfe buildings. Additionally, this exercise will provide rooms for DG1, for which it is planned to continue the recruitment of patent examiners in the coming years.
15. Finally, the PschorrHöfe complex offers several possibilities of segmentation, incl. separate entrances, allowing the EPO to collect a yearly rent. Taking into account the rent the EPO used to pay for Capitellum (EUR 3.8 million per year, stopped in 2015) and the current market situation in Munich, it seems realistic to recapture a major part of the rent paid for the new building in Munich/Haar in the near future.

16. Total budgetary impact of the lease contract including building adaptation costs is EUR 40.7 million over the entire term of the contract (15 years).

VIII. LEGAL BASIS

17. Article 58 (2) Fin Regs

IX. DOCUMENTS CITED

18. CA/43/16

X. RECOMMENDATION FOR PUBLICATION

19. Yes

ANNEX 1 TENANT RELATED INVESTMENTS

A. IT-Related investments	€595.000,-
B. Cooling ceilings in offices and cooling for the conference rooms	€2.660.000,-
C. Translation cabins and equipment	€1.445.000,-
D. Physical security	€795.000,-
E. Additional installations (sun blinds, tea kitchens etc.)	€1.160.000,-
TOTAL	<hr/> €6.655.000,- <hr/>