

DECISION OF THE ADMINISTRATIVE COUNCIL
of 12 December 2018
on the review of the specimen contract concerning
the appointment and terms of employment of
Vice-Presidents 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) thereof,

Having regard to the Service Regulations for permanent and other employees of the European Patent Office (hereinafter referred to as "the Service Regulations"),

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

HAS DECIDED AS FOLLOWS:

Article 1

The third paragraph of the preamble of the specimen contract shall be replaced by the following two paragraphs:

"Having regard to the Service Regulations for permanent and other employees of the European Patent Office (Service Regulations) and in particular Article 1(5) thereof which provides that the Service Regulations shall apply to the President and vice-presidents employed on contract unless their contract of employment expressly provides otherwise,

Having regard to the Pension Scheme Regulations of the European Patent Office,"

Article 2

Article 1, paragraph 1 of the specimen contract shall read as follows:

"(1) Mr (Ms) is hereby appointed Vice-President Directorate-General of the European Patent Office with effect from"

Article 3

Article 1, paragraph 2 of the specimen contract shall read as follows:

"(2) This contract shall have a fixed term of five years from the date referred to in the first paragraph of this article. It may be extended by the Administrative Council. However, it may not be converted into a permanent appointment as provided for in Article 8(4) of the Service Regulations."

Article 4

The following new paragraph 3 shall be added to Article 1 of the specimen contract:

"(3) The probationary period provided for in Article 13 of the Service Regulations shall not apply."

Article 5

Article 2, paragraphs 1 and 2 of the specimen contract shall read as follows:

"(1) The remit and objectives of the Vice-President Directorate-General are set out in the vacancy notice published in the Official Journal of the EPO and may be amended at any time in accordance with the Organisation's needs.

(2) Mr (Ms) shall report to, and within the limits defined in Article 20 of the Service Regulations follow any instructions received from, the President of the Office."

Article 6

The following new paragraph 3 shall be added to Article 2 of the specimen contract:

"(3) The annual objectives of Mr (Ms) shall be defined by the President of the Office, who may propose to the Administrative Council that he (she) be awarded a step, a promotion and/or a bonus in accordance with Articles 48, 48a and 49 of the Service Regulations within the limits set for employees appointed by the President of the Office. The Administrative Council shall decide on the proposal by a simple majority."

Article 7

Article 3 of the specimen contract shall read as follows:

"Article 3 Remuneration

(1) Mr (Ms) shall be paid a basic monthly salary corresponding to Grade...., step...., in job group 1. This figure shall be net, i.e. after deduction of the internal tax referred to in Article 64(4) of the Service Regulations.

(2) Mr (Ms) shall receive as a monthly supplementary allowance the equivalent of 10% of the basic monthly salary corresponding to step 3 in Grade G17 of the salary scale of his (her) place of employment.

(3) Remuneration shall not be liable to national income tax or to payment of any compulsory national social security contributions. If Mr (Ms) is performing or has performed other functions within the European Patent Office at the time of or prior to the present appointment, he (she) shall continue, where applicable, to participate in the salary savings plan under Article 65(3) of the Service Regulations."

Article 8

Article 4 of the specimen contract shall read as follows:

"Article 4 Reimbursement of expenses

To cover personal costs arising in connection with the work of a Vice-President, Mr (Ms) shall receive the equivalent of 7% of his (her) basic monthly salary as a flat-rate, monthly representation allowance."

Article 9

Article 5 of the specimen contract shall read as follows:

"Article 5 Social security

Mr (Ms) shall be covered by the social security scheme of the Office."

Article 10

Article 7 of the specimen contract shall read as follows:

"Article 7 Working hours and part-time work

Articles 55 and 56 of the Service Regulations shall not apply."

Article 11

Article 8 of the specimen contract shall read as follows:

"Article 8 Conduct

Mr (Ms) shall be subject to the rules of conduct for employees."

Article 12

Article 9 of the specimen contract shall read as follows:

"Article 9 Unilateral termination of contract

- (1) The contract may be terminated unilaterally by either party.
- (2) The appointing authority may terminate the contract, in particular in the following cases:
 - (a) The appointing authority considers that there are reasonable grounds for withdrawing the Organisation's confidence in the Vice-President, in particular in the case of unsatisfactory performance or misconduct. In this case, the Vice-President will be heard by the Administrative Council before a decision is taken on whether to terminate the contract.
 - (b) The Vice-President has been unable to perform his (her) duties for at least six consecutive months.
 - (c) A new President of the Office holding the same nationality as the Vice-President is appointed. In this event, the Office shall pay the Vice-President a lump sum of twelve times his (her) last basic salary.
- (3) Articles 50(1)(b), 52, 53a, 53b, 54 and Articles 93 to 105 of the Service Regulations shall not apply.
- (4) Article 53(4) of the Service Regulations shall not apply and is replaced by the following notice periods:
 - (a) In the event of a unilateral termination, the party initiating the termination shall give six months' notice, unless the other party agrees otherwise or the contract term ends sooner.
 - (b) If the termination results from the expiry of the contract, no notice shall be necessary.
- (5) Any notification of early contract termination shall be in writing and dispatched against advice of delivery."

Article 13

The following new Article 10 shall be added:

"Article 10 Mutually agreed termination of contract

(1) Subject to the approval of the Administrative Council, the contract may be terminated before the end of the term referred to in Article 1 by mutual agreement between the President of the Office and Mr (Ms) at the request of either of the two.

In this event, the party initiating the termination shall give six months' notice, unless the other party agrees otherwise or the contract term ends sooner.

(2) In the event of a mutually agreed termination of contract at the Office's initiative, the Office shall pay full remuneration during the notice period. Article 65 of the Service Regulations shall continue to apply during that period.

The Office shall also pay Mr (Ms) a lump sum of 70% of the basic salary that would have been payable from the date of termination until the contract's original expiry date, up to the sum of one year's net remuneration after deduction of internal tax and the Vice-President's personal contributions to the applicable Office pension scheme and of his (her) social security contributions and, where applicable, of his (her) contributions to the salary savings plan.

(3) At the end of the notice period, for Vice-Presidents who were employees of the European Patent Office before their appointment, a retirement pension or an early pension where applicable shall be paid on the basis of the rights accrued under the applicable Office pension scheme and his (her) age at that time. Where Article 65(3) of the Service Regulations applies, the balance of the salary savings plan shall be paid out.

(4) Paragraphs (2) and (3) shall not apply if the Vice-President is reinstated in accordance with Article 13 of this contract."

Article 14

The following new Article 11 shall be added:

"Article 11 Reserve status

Article 46 of the Service Regulations shall not apply."

Article 15

The following new Article 12 shall be added:

"Article 12 Secondment

Article 43 of the Service Regulations shall not apply."

Article 16

The following new Article 13 shall be added:

"Article 13 Reinstatement as a permanent employee

(The following Article 13 shall be inserted in the contract for use in the case of vice-presidents who were permanent employees of the Office before their appointment)

Unless otherwise provided for under the Service Regulations, Mr (Ms) shall be reinstated with immediate effect as a permanent employee of the Office upon termination of this contract and shall take up his (her) duties in a post corresponding to his (her) grade immediately prior to his (her) appointment as Vice-President by virtue of this contract. His (her) step shall be determined as if Mr (Ms) had not ceased performing his (her) duties in that grade.

In the event of termination of contract on the ground of loss of confidence, reinstatement may take place only upon decision of the Administrative Council."

Article 17

Article 11 of the specimen contract shall become Article 14.

Article 18

Article 12 of the specimen contract shall become Article 15.

Article 19

Article 13, paragraph 1 shall be deleted.

Article 20

Article 13, paragraph 2 shall become Article 16 and shall read as follows:

"Article 16 Future amendments

Any amendment to an article of the Service Regulations applicable to job group 1 and, where appropriate, the Pension Scheme Regulations shall apply directly to the present contract."

Article 21

The annex to the contract concerning the appointment and terms of employment of Vice-Presidents along with Annexes 1 to 4 to the specimen contract shall be deleted.

Article 22

Transitional provision

The Chairman of the Administrative Council is hereby authorised to renegotiate the contracts of the Vice-Presidents and the President of the Boards of Appeal using the specimen contract as amended by this decision, making the necessary contractual changes in the case of the latter party.

Article 23

This decision shall enter into force on 1 January 2019.

Done at Munich, 12 December 2018

For the Administrative Council
The Deputy Chairman



Josef KRATOCHVÍL