

IMPLEMENTING REGULATIONS TO THE EUROPEAN PATENT CONVENTION

of 5 October 1973

as amended by decision of the Administrative Council of the European Patent Organisation
of 12 December 2019

Article 1

Rule 103 of the Implementing Regulations to the EPC shall read as follows:

„Rule 103 Reimbursement of the appeal fee

- (1) The appeal fee shall be reimbursed in full
 - (a) in the event of interlocutory revision or where the Board of Appeal deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation,
or
 - (b) if the appeal is withdrawn before the filing of the statement of grounds of appeal and before the period for filing that statement has expired.
- (2) The appeal fee shall be reimbursed at 75% if, in response to a communication from the Board of Appeal indicating its intention to start substantive examination of the appeal, the appeal is withdrawn within two months of notification of that communication.
- (3) The appeal fee shall be reimbursed at 50% if the appeal is withdrawn after expiry of the period under paragraph 1(b), provided withdrawal occurs:
 - (a) if a date for oral proceedings has been set, within one month of notification of a communication issued by the Board of Appeal in preparation for these oral proceedings;
 - (b) if no date for oral proceedings has been set, and the Board of Appeal has issued a communication inviting the appellant to file observations, before expiry of the period set by the Board for filing observations;
 - (c) in all other cases, before the decision is issued.
- (4) The appeal fee shall be reimbursed at 25%
 - (a) if the appeal is withdrawn after expiry of the period under paragraph 3(a) but before the decision is announced at oral proceedings;
 - (b) if the appeal is withdrawn after expiry of the period under paragraph 3(b) but before the decision is issued;
 - (c) if any request for oral proceedings is withdrawn within one month of notification of the communication issued by the Board of Appeal in preparation for the oral proceedings, and no oral proceedings take place.
- (5) The appeal fee shall be reimbursed under only one of the above provisions. Where more than one rate of reimbursement applies, reimbursement shall be at the higher rate.

(6) The department whose decision is impugned shall order the reimbursement if it revises its decision and considers reimbursement equitable by reason of a substantial procedural violation. In all other cases, matters of reimbursement shall be decided by the Board of Appeal.”

Article 2

1. Rule 103 EPC as amended under Article 1 of this decision shall enter into force on 1 April 2020.
2. Rule 103 EPC as amended under Article 1 of this decision shall apply to appeals pending at the date of entry into force and to appeals filed after that date.

Done at Munich, 12 December 2019