

likelihood of error being comparatively low. Insisting on one would in practice reduce the time limit: to be effective, any checks would have to be made after payment, but also within the time limit (see also T 3029/18 of 3 June 2020).

In T 166/87 the board held that in a relatively small office, normally working in an efficient and personal manner, employing normally reliable personnel, a cross-check mechanism, especially in relation to one-off payments such as an appeal fee, could fairly be regarded as superfluous.

In J 31/90 the Legal Board took the view that the system used for observing the time limit, while far from perfect, could be considered in the special circumstances of the case to be normally satisfactory. The system combined the giving of specific oral instructions to the secretary on a case by case basis, with notations on the file to indicate which documents should be filed with the EPO. The board emphasised, however, that the system could only be so considered because of the particular conditions in which the representative and her secretary worked. Over a period of ten years, working together alone in a small office they had built up an excellent working relationship and mutual trust.

In J 11/03 the Legal Board confirmed that the organisational requirements for a generally efficient time-limit monitoring system were subject to variation on account of the firm's size and nature and the number of time limits that had to be monitored. A cross-checking mechanism may in certain circumstances be regarded as superfluous in a small firm employing normally reliable personnel and normally working in an efficient and personal manner, but not in a large company with its own patent department (T 166/87). The appellant was a very small firm with a commercial division essentially comprising only the commercial manager and the book-keeper. In the circumstances additional checking that payments had actually been made might be deemed superfluous without impairing the functioning of the system.

5.4.5 All due care in making provisions for staff absences

In T 324/90 (OJ 1993, 33) the board held that in a large firm, where a considerable number of deadlines had to be monitored at any given time, it had normally to be expected that at least **an effective system of staff substitution** in the case of illness and for absences in general was in operation in order to ensure that official documents such as decisions by the EPO, which started periods within which procedural steps had to be carried out, were properly complied with.

In T 1401/05 of 20 September 2006 the board followed decisions T 324/90, J 41/92 and J 5/94 and deemed it necessary that reasonable provisions for absence due to the illness of a person who is in charge of monitoring time limits are made, unless in the particular circumstances of a case imposing such provisions would have to be considered as an undue burden. Only where any necessary provisions have been taken will it be possible to deem the monitoring system of time limits to be "normally satisfactory" (see T 324/90), and thus for considering illness to be an excuse for not meeting a deadline. Regarding the need for a back-up in the specific case, the board considered it of relevance that the number of time-limits to be complied with was small (the appellant filed only a few patent