European Court of Human Rights. It was not convinced that that case law was sufficient to demonstrate that the length of examination proceedings before the EPO could be systematically taken into account when assessing the reasonable time. Nonetheless, the board stated that the principles developed by the Court regarding the length of the proceedings provided a useful framework for assessing the length of proceedings. In the case in hand, the appellant had not formulated any specific claim in relation to the alleged violation of Art. 6(1) ECHR. See also the similar case **T 2805/19**.

In **T 1787/16**, the board observed that Art. 125 EPC stipulated that in the absence of any procedural provisions in the EPC, the principles of procedural law generally recognised in the contracting states to the European Patent Organisation were to be taken into account. This applied in particular to the legal principle of a right to a fair trial, as laid down for instance in Art. 6(1) ECHR, which was a general yardstick for shaping proceedings. It also included the requirement to word the decision so that it could be understood by any party with a command of the language of the proceedings.

In **T 844/18** the appellant alleged that the established EPO interpretation interfered with the owners' right of peaceful enjoyment of their possessions. Moreover, it could even result in the loss of another property right, namely the patent, due to novelty-destroying intervening prior art. The board, considering the appellant's argument to be circular, did not explicitly address the alleged violation of Art. 1 of Protocol No. 1 to the ECHR (point 51 of the Reasons).

4. Impact of national decisions on the case law of the boards of appeal

As previously mentioned, decisions and opinions handed down by national courts on interpreting the law can also be taken into account (**G 2/12**, **G 2/13**, **G 3/19**).

4.1. The duty of the boards of appeal to interpret and apply the EPC

In **G 2/02** and **G 3/02** (OJ 2004, 483) the Enlarged Board of Appeal recognised that, in accordance with the aim of the EPC, as expressed in its preamble, to strengthen co-operation between the States of Europe in respect of the protection of inventions, there has always been the intention to harmonise the substantive patent law to be applied in the contracting states and in the EPO.

In **G 5/83** the Enlarged Board of Appeal stated that in the interpretation of international treaties which provide the legal basis for the rights and duties of individuals and corporate bodies it is, of course, necessary to pay attention to questions of harmonisation of national and international rules of law. This aspect of interpretation, not dealt with by the provisions of the Vienna Convention, is particularly important where, as is the case with European patent law, provisions of an international treaty have been taken over into national legislation. The establishment of harmonised patent legislation in the contracting states must necessarily be accompanied by harmonised interpretation. For this reason, it is incumbent upon the European Patent Office, and particularly its boards of appeal, to take into consideration the decisions and expressions of opinion of courts and industrial property offices in the contracting states.