

K. Formal aspects of decisions of EPO departments

1.	Composition of the competent departments of first instance	935
1.1.	General comments on changes in composition of the competent departments of first instance	935
1.2.	Examining division	936
1.3.	Opposition division	936
1.3.1	Enlargement of the opposition division by addition of a legal member	936
1.3.2	Change in composition of opposition division during opposition proceedings	937
1.3.3	Composition of opposition division includes those who have taken part in proceedings for grant contrary to Art. 19(2) EPC	938
1.3.4	Remittal after breach of Article 19(2) EPC	938
2.	Date of decision	939
2.1.	Entry into force of decisions	939
2.2.	Completion of the internal decision-making process	939
2.3.	Date European patent takes effect and jurisdiction after pendency	940
3.	Form of decisions	940
3.1.	When is there a decision?	940
3.1.1	Cases involving two decisions	941
3.1.2	Inconsistency between oral and written decisions	942
3.2.	Pointing out the right to appeal in accordance with Rule 111(2) EPC	942
3.3.	Signatures on a decision under Rule 113 EPC	942
3.3.1	Decisions to be signed	943
3.3.2	Examples of invalid signatures	943
	a) When decision is announced in oral proceedings	943
	b) Director's signature in place of examiner's signature	943
3.3.3	Examples of valid signatures	944
	a) Computer-generated communications	944
	b) Death of examiner between oral proceedings and written decision	944
	c) Decision in written proceedings	944
	d) Illegible signature	945
	e) Draft decisions	945
3.4.	Reasons for the decision	945
3.4.1	Purpose of the duty to provide reasons	945
3.4.2	Right to be heard – right to have submissions taken into consideration	945
3.4.3	The requirement of sufficient reasoning	946
3.4.4	Deficient reasons	947
	a) Deficient reasons sufficient for the purposes of Rule 111(2) EPC?	947
	b) Deficient reasoning insufficient for the purposes of Rule 111(2) EPC	948
	c) No reasons for decision	950
3.4.5	Special cases	952
	a) References to communications	952
	b) Reference to a board decision or case law	952
	c) Assessment of inventive step without assessing the prior art	952