

In J 3/90 (OJ 1991, 550) the Legal Board interpreted the concept of a **general** interruption, explaining that R. 85(2) EPC 1973 was not restricted to nationwide interruptions. In the case in hand, the board decided that the limited geographical extent of the disruption did not disqualify the interruption from being general. Whether or not a representative had undertaken all possible measures to avoid the effects of a postal strike was not a relevant test under R. 85(2) EPC 1973.

In J 1/93 the Legal Board again stated that for an interruption in the delivery of mail under R. 85(2) EPC 1973 to be considered general in character **the public in general** residing in an area of some magnitude, even if of limited geographical extent, had to be affected. The loss of a single mailbag might affect a number of individual addressees but not the public in general.

In J 14/03 the board confirmed that evidence of a disruption within the meaning of R. 85(2) EPC 1973 provided by the appellant can lead to a retrospective extension of time in a particular case, as occurred in J 11/88, if this evidence, had it been known at the time, would have been such as to warrant a Presidential statement under R. 85(2) EPC 1973. However, in contrast to the probative value of the evidence in J 11/88, in the case in hand the evidence was inconclusive.

1.3.3 Dislocation of a mail service outside the contracting states (Rule 134(5) EPC)

In J 13/05 the board highlighted that R. 85(5) EPC 1973 was inserted into the EPO following the events of 11 September 2001 because the legal remedies available at that time were inadequate. It was decided not to extend R. 85(2) EPC 1973 to postal interruptions outside the contracting states, as only for those states could the EPO be sure of obtaining the information necessary to enable the President to announce a general interruption or dislocation. Therefore, unlike the preceding paragraphs, R. 85(5) EPC 1973 was drafted so as to place the **burden of proof** on the party asserting a general interruption or dislocation of the mail service. Like R. 85(2) EPC 1973, R. 85(5) EPC 1973 required that more than one person using the mail service be affected or theoretically capable of being affected by the interruption or dislocation, even if a merely minor or geographically limited interruption might be sufficient.

1.4. Statutory periods of grace, additional period for payment of renewal fees and the fiction of observance of a time limit for fee payments

1.4.1 Additional period for payment of renewal fees under Rule 51(2) EPC

The substance of Art. 86(2) EPC 1973 (late payment of renewal fee and payment of additional fee) is now contained in R. 51(2) EPC.

In J 4/91 (OJ 1992, 402) the Legal Board held that when calculating the six-month period for the payment of a renewal fee with additional fee under Art. 86(2) EPC 1973, R. 83(4) EPC 1973 should be applied mutatis mutandis in the light of R. 37(1), first sentence, EPC 1973. This meant that the six-month period did not end on the day of the subsequent sixth month corresponding "in number" to the due date according to R. 37(1),