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In J.15/04 the board noted that board members' notices of self-recusation did not automatically effect their final exclusion from the proceedings (see also R.2/15 of 21 October 2015, T.1627/09 of 14 September 2018). A notice of self-recusation only initiated the procedure under Art. 24(4) EPC 1973 but did not pre-empt the outcome of the decision to be taken. If one accepted that a notice of self-recusation would immediately and automatically exclude the member concerned, then the party's formal right to a hearing before a duly appointed member of the board as established by the EPC would be violated. The board stated that the grounds of possible partiality given by a board member in a notice of self-recusation should normally be respected by the decision. It could be expected that the member submitting a notice of self-recusation based on specific facts knew best whether or not a possible suspicion of partiality might arise. The public or a party should not suspect bias after a decision of a board of appeal finding no grounds of suspicion of partiality (see also T.584/09 of 1 March 2013).

In R.2/15 of 21 October 2015 the Enlarged Board held that in the case of a party's objection under Art. 24(3), first sentence, EPC (see in this chapter III.J.2.3.) it had to be established that there was subjective partiality or at least an appearance of partiality (objective partiality). In the case of self-recusation, however, it was sufficient that an appearance of partiality was at least arguable in the circumstances of the case.

In T.1627/09 of 14 September 2018 the board accepted the notices of recusation submitted by both the chair and the legal member of the board in accordance with Art. 24(2) EPC. They had both formed part of the board in T.1627/09 of 10 October 2013 (decision set aside by R.2/14 of 22 April 2016, which ordered the proceedings be re-opened) and they held that if they remained as members of the board, they would have to decide for a second time on the same issues. The board referred to the jurisprudence of the boards of appeal mentioned above in this chapter and held further that this was in accordance with Art. 6(1) of the European Convention on Human Rights (ECHR) and Art. 47(2) of the Charter of Fundamental Rights of the European Union (CFR), both recognised as binding standards for proceedings before the boards. The board referred to the case law of the ECtHR on Art. 6(1) ECHR that only under very exceptional circumstances a notice of self-recusation shall not lead to a replacement (cf., inter alia, European Court of Human Rights, *Rudnichenko v. Ukraine*, no. 2775/07). As an example of national case law that followed the same lines the board referred to Austrian Supreme Court 4 Ob 186/11y EFSig 131.987.

2.2. Objection by other board members of the same board of appeal

In J.15/04 the notices of self-recusation of the two legal members contained information concerning a possible reason for exclusion of the chairman (which did not originate from the chairman himself). The board stated that for one of the originally appointed members of the board to be replaced by his alternate, the individual member had to have informed the board that he should not take part in the appeal or have been objected to by one of the parties. However, according to Art. 3(1) RPBA 2003, the application of