

a task entrusted to the boards. This task could not be transferred or delegated, in whole or in part, to the parties, let alone just one of them (see also T.433/11).

#### 7.10.4 Signing of minutes

According to R.124(3)EPC, the minutes shall be authenticated by the employee responsible for drawing them up and by the employee who conducted the oral proceedings or taking of evidence, either by signature or by any other appropriate means.

In case T.2076/11 the minutes were signed by a director rather than by the chairman who had presided over the oral proceedings before the opposition division. This was a substantial procedural violation.

#### 7.10.5 Refusal to record statement not an infringement of the right to be heard

According to T.1055/05 the refusal of the division to record statements made by a party at the oral proceedings could not constitute an infringement of the right to be heard.

### 7.11. Presence of assistants during deliberations of the board

According to Art. 19(1), second sentence, RPBA 2020 only members of the board may participate in the deliberations; the chairman may, however, authorise other officers to attend. In T.857/06 the board stated that in several EPC contracting states the judicial work of courts, in particular supreme courts and constitutional courts, is supported by assistants. Also the active involvement of assistants in preparing the ground for judicial decisions appeared to be widely accepted. In accordance with this practice, a limited number of assistants supports the EPO's boards of appeal. The board concluded that the discretion under Art. 19(1), second sentence, RPBA 2007 may be exercised to allow the board's assistant to attend and to take part in the deliberations.

## 8. Costs

### 8.1. Apportionment of costs

A different apportionment of costs may be ordered in accordance with Art. 104 EPC and Art. 16 RPBA 2007, if a party, for example, withdraws a request for oral proceedings, asks for their postponement, or fails to attend them (see chapter III.R.2.2. "Acts or omissions prejudicing the timely and efficient conduct of oral proceedings").

### 8.2. Interpreting costs during oral proceedings

For more information, see chapter III.F.3. "Derogations from the language of the proceedings in written proceedings and in oral proceedings". Under R.4(1)EPC (R.2(1)EPC 1973), "any party to oral proceedings before the EPO may use an official language of the EPO other than the language of the proceedings, if such party gives notice to the EPO at least one month before the date of such oral proceedings or provides for