



Council of the  
European Union

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LIMITE

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#### NOTE

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From:	Presidency/General Secretariat of the Council
To:	Permanent Representatives Committee
No. prev. doc.:	8674/23, 7405/23, 7372/23
Subject:	Possible extension of the term of office of the Executive Director of the European Union Intellectual Property Office - Guidance for further work

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#### A. INTRODUCTION

1. The current Executive Director of the European Union Intellectual Property Office (EUIPO) was appointed by Council Decision of 18 September 2018<sup>1</sup>. The Executive Director's five-year term of office started on 1 October 2018 and is due to end on 30 September 2023.
2. Pursuant to the second sentence of Article 158(3) of Regulation (EU) 2017/1001 on the European Union trade mark ('EU trade mark Regulation'), the EUIPO Management Board, by the end of the Executive Director's term of office, shall undertake an assessment which takes into account an evaluation of the performance of the Executive Director and the EUIPO's future tasks and challenges.

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<sup>1</sup> OJ C 338, 21.09.2018, p. 8.

3. Article 158(4) of the EU trade mark Regulation provides that the Council, taking into account the assessment referred to in Article 158(3) of the EU trade mark Regulation, may extend the term of office of the EUIPO Executive Director once and for no more than five years. The requirement of simple majority which applies for the appointment of the EUIPO Executive Director pursuant to Article 158(2) of the EU trade mark Regulation also applies to the extension of its term of office.

## **B. STATE OF PLAY**

4. By letter of 7 December 2022, the EUIPO Management Board, in the person of its Chairperson, informed the Council about its decision not to submit a proposal to the Council to extend the term of office of the current EUIPO Executive Director for an additional period of five years (see document 7372/23 with the cover letter and its enclosure). By letter of 25 April 2023<sup>2</sup>, the EUIPO Management Board, in the person of its Chairperson, provided its assessment as referred to in Article 158(3) of the EU trade mark Regulation (see document 8674/23 with the cover letter and its enclosure).
5. The Mertens Group, at its meeting on 8 May 2023, examined the information provided by the EUIPO Management Board as its assessment referred to in Article 158(3) of the EU trade mark Regulation (see document 8674/23), as well as the other information provided by the EUIPO Management Board (see document 7372/23). On the basis of this information, the Mertens Group exchanged views on the possible extension of the term of office of the current EUIPO Executive Director.
6. In the light of the above and on the basis of the procedure suggested in part C of this Note, the Permanent Representatives' Committee is invited to provide guidance for the way forward as regards a possible extension of the term of office of the EUIPO Executive Director.

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<sup>2</sup> Submitted in response to the letter of COREPER of 22 March 2023 (doc. 7405/23).

## C. PROCEDURE

7. It is suggested that the procedure be as follows:
- i. the Permanent Representatives' Committee will deliberate in restricted session on the possible extension of the term of office of the EUIPO Executive Director;
  - ii. the delegations will be given the opportunity to express their views on the possible extension, on the information provided by the EUIPO Management Board as its assessment referred to in Article 158(3) of the EU trade mark Regulation (see document 8674/23), as well as on the other information provided by the EUIPO Management Board (see document 7372/23);
  - iii. the Committee will then proceed to an indicative vote, by secret ballot, on the possible extension of the term of office of the EUIPO Executive Director;
  - iv. to that end, each delegation will receive a ballot paper setting out the options to vote either in favour or against such extension, or to abstain;
  - v. the Legal Service of the Council will count the indicative votes;
  - vi. depending on the outcome of the vote, the Committee will provide guidance as suggested in point 8(c) of this Note.

## **D. CONCLUSION**

8. The Permanent Representatives Committee is invited to:
- (a) approve the arrangements set out in part C of this Note;
  - (b) hold an indicative vote to check whether the required simple majority can or cannot be reached for the adoption of a Council Decision extending the term of office of the current EUIPO Executive Director, and
  - (c) depending on the outcome of the indicative vote, recommend to the Council to:
    - (i) either, if there is a simple majority in support of an extension, adopt a Council Decision extending the term of office of the current Executive Director of the EUIPO. Such decision will be prepared and submitted to COREPER/Council for adoption as I/A-item as soon as possible;
    - (ii) or, if there is no simple majority in support of an extension, approve a letter to communicate to the EUIPO Management Board (with copy to the current EUIPO Executive Director) that the required majority for the adoption of a Council decision extending the term of office of the current Executive Director of the EUIPO cannot be reached within the Council. Such letter will be prepared and submitted for approval by COREPER/Council as I/A-item as soon as possible.

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