



Council of the
European Union

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NOTE

From:	Presidency
To:	Permanent Representatives Committee
No. prev. doc.:	9463/21, 11446/21
Subject:	Appointment of the Chairperson of a Board of Appeal of the European Union Intellectual Property Office - Examination of the candidatures

A. INTRODUCTION

1. By a letter dated 1 June 2021, the Chairperson of the Management Board of the European Union Intellectual Property Office (EUIPO) submitted to the Council inter alia the list of candidates drawn up by the Management Board for the appointment of the Chairperson of a Board of Appeal of the EUIPO, together with the number of votes obtained by each candidate within the Management Board.¹

¹ These documents were circulated by doc. 9463/21.

B. PROCEDURE

2. Chairpersons of the EUIPO Boards of Appeal are appointed by the Council pursuant to Article 166(1) of Regulation (EU) 2017/1001 on the European Union trade mark, on the basis of the same arrangements as prescribed for the appointment of the Executive Director of the EUIPO under Article 158(2) of that Regulation.

Pursuant to those provisions, the Council appoints the Chairpersons of the EUIPO Boards of Appeal by simple majority from a list of candidates proposed by the Management Board of the EUIPO after the European Parliament had the opportunity to invite the candidate(s) selected by the Management Board to make a statement before any competent European Parliament committee and to answer questions put by its members.

3. For the post under consideration, the Management Board of the EUIPO has submitted a list of three candidates (see doc. 9463/21).
4. The European Parliament's Committee on Legal Affairs (JURI) heard the candidates on 9 September 2021 (see the letter of 10 September 2021 in doc. 11446/21).
5. It is suggested that the procedure for the selection of the successful candidate be as follows:
 - the Permanent Representatives Committee will deliberate in restricted session;
 - the members of the Committee will be given the opportunity to express their views on the candidates if they so wish;
 - each delegation will receive one ballot paper on which the candidates' names will appear in alphabetical order;
 - the Committee will proceed to an indicative vote, by secret ballot, delegations having the option of either voting for one of the three candidates or abstaining;
 - the Legal Service of the Council will proceed to the counting of the votes;
 - if, at the first round, there is a simple majority of Member States, i.e. at least 14 votes, in favour of one of the candidates, the Committee will recommend to the Council to appoint, under the A-items of one of its future meetings, that candidate to the post of Chairperson of a EUIPO Board of Appeal;

- if at the first round there is no simple majority of Member States in favour of one of the candidates, the Committee will proceed to a second round of indicative vote, and if necessary to a third round, according to the following arrangements:
 - the candidate who has obtained the lowest number of votes will not be taken into account for the following round;
 - if, however, the two candidates who have received the lowest number of votes have received an equal number of votes, all three candidates will participate in the following round;

- the Committee will then recommend to the Council to appoint, under the A-items of one of its future meetings, the candidate having received the highest number of votes in the last applicable round.

C. TERM OF OFFICE

6. In accordance with established practice, it is suggested that the Council leave it to the Management Board of the EUIPO to set the date on which the term of office of the person appointed by the Council will begin.

D. CONCLUSION

7. The Permanent Representatives Committee is invited to:
 - (a) approve the arrangements set out in points 5 and 6 of this Note, and
 - (b) select the candidate whom it wishes to recommend to the Council to appoint to the post of Chairperson of a Board of Appeal of the EUIPO.
