



EUROPEAN
COURT
OF AUDITORS

Opinion No 3/2017

on a proposal to amend Article 83(1) of Regulation No CB-1-15 of the Budget
Committee of the European Union Intellectual Property Office of
26 November 2015 laying down the financial provisions applicable to the Office
and of Article 18(2)(e) of its Implementing Rules

THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 287(4) thereof,

Having regard to Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark¹ (“EUIPO Regulation”), establishing the Office for Harmonisation in the Internal Market, (“the Office”), and in particular its Article 143,

Having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union² (“the general Financial Regulation”),

Having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council³ (“the Framework Financial Regulation”),

Having regard to Regulation No CB-1-15 of the Budget Committee of the European Union Intellectual Property Office of 26 November 2015 laying down the financial provisions applicable to the Office (“the Financial Regulation”) and to the related Implementing Rules,

Having regard to the proposal of the Office for an amendment of Article 83(1) of the Financial Regulation and of Article 18(2)(e) of its Implementing Rules,

Having regard to the request of the Executive Director of the Office for an opinion on this proposal which was submitted to the European Court of Auditors (“Court”) on 17 March 2017,

HAS ADOPTED THE FOLLOWING OPINION:

¹ OJ L 78, 24.3.2009, p. 1.

² OJ L 298, 26.10.2012, p. 1.

³ OJ L 328, 7.12.2013, p. 42.

1. Article 143 of the EUIPO Regulation states that the Budget Committee of the Office shall consult the Court before adopting the Office's internal financial provisions specifying, in particular, the procedure for establishing and implementing the Office's budget.

2. With regard to procurement, the Office's Financial Regulation makes direct reference, in its Article 83(1), to Title V of the general Financial Regulation and its Rules of Application, which contain the main procurement rules applicable to the Office:

"As regards procurement, Title V of the general Financial Regulation and of its Rules of Application shall apply, subject to Article 84."

3. Given the growing importance of external actions carried out by the Office and, in particular, those included in European Commission programmes on intellectual property activities in China, ASEAN countries, India etc. and taking into account that funds for such activities are now included in the Office's budget, the Office proposes to amend that Article 83(1) of its Financial Regulation and Article 18(2)(e) of its Implementing Rules as follows:

"As regards procurement, the relevant provisions of the general Financial Regulation and of its Rules of Application shall apply, subject to Article 84."

4. The objective of this amendment is to ensure that, as under the previous version of its Financial Regulation, the Office can continue to apply the simplified procurement provisions applicable to the external actions of the European Union that are contemplated in Part 2, Title IV of the general Financial Regulation and, in particular, to the external actions included in European Commission programmes that are carried out using funds from the EU budget.

5. Given the above reasoning, the Court considers that the proposed amendment is justified.

This Opinion was adopted by Chamber IV, headed by Mr Baudilio Tomé MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 23 May 2017.

For the Court of Auditors

Klaus-Heiner LEHNE

President