

Commission Regulation (EC) No 2245/2002 of 21 October 2002
implementing Council Regulation (EC) No 6/2002 on Community designs

CHAPTER VIII

ORAL PROCEEDINGS AND TAKING OF EVIDENCE

Article 42

Summons to oral proceedings

- 1 The parties shall be summoned to oral proceedings provided for in Article 64 of Regulation (EC) No 6/2002 and their attention shall be drawn to paragraph 3 of this Article. At least one month's notice of the summons shall be given unless the parties agree to a shorter time limit.
- 2 When issuing the summons, the Office shall draw attention to the points which in its opinion need to be discussed in order for the decision to be taken.
- 3 If a party who has been duly summoned to oral proceedings before the Office does not appear as summoned, the proceedings may continue without him/her.

Article 43

Taking of evidence by the Office

1 Where the Office considers it necessary to hear the oral evidence of parties, of witnesses or of experts or to carry out an inspection, it shall take a decision to that end, stating the means by which it intends to obtain evidence, the relevant facts to be proved and the date, time and place of the hearing or inspection.

If oral evidence from witnesses and experts is requested by a party, the decision of the Office shall determine the period of time within which the party filing the request must make known to the Office the names and addresses of the witnesses and experts whom the party wishes to be heard.

2 The period of notice given in the summons of a party, witness or expert to give evidence shall be at least one month, unless they agree to a shorter time limit.

The summons shall contain:

- a an extract from the decision mentioned in the first subparagraph of paragraph 1, indicating in particular the date, time and place of the hearing ordered and stating the facts regarding which the parties, witnesses and experts are to be heard;
- b the names of the parties to proceedings and particulars of the rights which the witnesses or experts may invoke pursuant to Article 45(2) to (5).

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are outstanding changes not yet made to Commission Regulation (EC) No 2245/2002. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 44

Commissioning of experts

1 The Office shall decide in what form the report made by an expert whom it appoints shall be submitted.

2 The terms of reference of the expert shall include:

- a a precise description of his/her task;
- b the time limit laid down for the submission of the expert's report;
- c the names of the parties to the proceedings;
- d particulars of the claims which the expert may invoke pursuant to Article 45(2), (3) and (4).

3 A copy of any written report shall be submitted to the parties.

4 The parties may object to an expert on grounds of incompetence or on the same grounds as those on which objection may be made to an examiner or to a member of a Division or Board of Appeal pursuant to Article 132(1) and (3) of Council Regulation (EC) No 40/94⁽¹⁾. The department of the Office concerned shall rule on the objection.

Article 45

Costs of taking of evidence

1 The taking of evidence by the Office may be made conditional upon deposit with it, by the party who has requested the evidence to be taken, of a sum which shall be fixed by reference to an estimate of the costs.

2 Witnesses and experts who are summoned by and appear before the Office shall be entitled to reimbursement of reasonable expenses for travel and subsistence. An advance for those expenses may be granted to them by the Office. The first sentence shall apply also to witnesses and experts who appear before the Office without being summoned by it and who are heard as witnesses or experts.

3 Witnesses entitled to reimbursement under paragraph 2 shall also be entitled to appropriate compensation for loss of earnings, and experts shall be entitled to fees for their services. Those payments shall be made to the witnesses and experts after they have fulfilled their duties or tasks, where such witnesses and experts have been summoned by the Office on its own initiative.

4 The amounts and the advances for expenses to be paid pursuant to paragraphs 1, 2 and 3 shall be determined by the President of the Office and shall be published in the Official Journal of the Office.

The amounts shall be calculated on the same basis as the compensation and salaries received by officials in grades A 4 to A 8 as laid down in the Staff Regulations of officials of the European Communities and in Annex VII thereto.

5 Final liability for the amounts due or paid pursuant to paragraphs 1 to 4 shall lie with:

- a the Office where the Office, on its own initiative, considered it necessary to hear the oral evidence of witnesses or experts; or

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- b the party concerned where that party requested the giving of oral evidence by witnesses or experts, subject to the decision on apportionment and fixing of costs pursuant to Articles 70 and 71 of Regulation (EC) No 6/2002 and Article 79 of this Regulation.

The party referred to in point (b) of the first subparagraph shall reimburse the Office for any advances duly paid.

Article 46

Minutes of oral proceedings and of evidence

1 Minutes of oral proceedings or the taking of evidence shall be drawn up, containing the essentials of the oral proceedings or of the taking of evidence, the relevant statements made by the parties, the testimony of the parties, witnesses or experts and the result of any inspection.

2 The minutes of the testimony of a witness, expert or party shall be read out or submitted to him/her so that he/she may examine them. It shall be noted in the minutes that this formality has been carried out and that the person who gave the testimony approved the minutes. Where his/her approval is not given, his/her objections shall be noted.

3 The minutes shall be signed by the employee who drew them up and by the employee who conducted the oral proceedings or taking of evidence.

4 The parties shall be provided with a copy of the minutes.

5 Upon request, the Office shall make available to the parties transcripts of recordings of the oral proceedings, in typescript or in any other machine-readable form.

The release of transcripts of those recordings shall be subject to the payment of the costs incurred by the Office in making such transcript. The amount to be charged shall be determined by the President of the Office.

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(1) [OJ L 11, 14.1.1994, p. 1.](#)

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