

CONSOLIDATED ANNUAL ACTIVITY REPORT 2020

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This document has been drawn up in compliance with Articles 157.4(g) and 153.1(c) (“Annual Report”) of the European Union Trade Mark Regulation (the “Founding Regulation”) of 14 June 2017, and Article 48 of the Regulation BC-1-2019 of the Budget Committee of the European Union Intellectual Property Office of 10 July 2019 laying down the financial provisions applicable to the Office (‘Financial Regulation’).

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Message from the Executive Director

The past year witnessed both a transition between strategic plans and the revision under extreme pressure of the COVID-19 pandemic of all operations and projects for the year.

The value of the Office's overall strategic approach was soon proven, as evidenced by the high level of readiness to move to mobile and flexible working as well as the agile planning ethos embedded in the new SP2025 strategy.

Despite most staff teleworking for an extended period from mid-March to September, the Office delivered all the main objectives of the previous strategic plan, SP2020, on schedule by the end of June.

When large-scale lockdowns were imposed, the Office acted quickly to safeguard our customers' interests by extending all time limits twice. Staff brought the ensuing rise in delayed files under control while keeping quality and timeliness at very high levels throughout.

Even though recovery in the number of applications was slow in some countries, and the consequences of Brexit continued to be felt, the Office ended the year with a 10.2 % increase in filings for EU trade marks (3.6 % for designs) compared to 2019. China also emerged as the top filing country for EU trade marks and the second highest for designs.

The new strategic plan, SP2025, which launched on 1 July, was already aligned with the EU's strategic priorities. Over and above the planned activities under SP2025, the Office was also able to accelerate plans to help SMEs via a special section on our website offering better information and access to pro bono advice and effective dispute resolution.

The Office also brought forward work on the EasyFiling form and obtained approval from our governing bodies for the EUR 20 million Ideas Powered for business SME Fund. This fund is primarily financed from the Office's financial reserves and operates under the European Commission's COSME programme for competitiveness in 2021. The Member State intellectual property offices have played a central role in making the fund reach its beneficiaries, and the way everyone has pulled together demonstrates the value of cooperation and the strength of the networks we have created. This was also shown by the publication of the European Commission's evaluation of the Observatory, reinforcing its value as a 'hub of excellence on IP infringements and a facilitator and driver for cooperation in this area'.

Throughout 2020 the Office staff performed their duties with resilience and professionalism in the most difficult of circumstances. The Office examined more trade marks and designs than ever, in full compliance with service and quality standards. In addition, the Office continued the process of taking on new skills related to artificial intelligence (AI) and blockchain, and other innovations to help us get closer to our customers.

In a year in which we all needed to do our utmost to support customers and the EU recovery plan, I am proud to be able to say that the Office, in partnership with the EU institutions and stakeholders, played its part in showing that we are, indeed, 'stronger together'.

Christian Archambeau
Executive Director

The Office at a glance




The new strategic plan is built on the vision of delivering ‘IP value for businesses and citizens in Europe’ through a number of interlinked initiatives. As an IP hub of excellence, the European Union Intellectual Property Office (the Office) provides customer-centric services and contributes to a stronger IP system, efficient enforcement and better understanding of IP rights (IPRs) in a global and increasingly digital environment by building and promoting sustainable networks, thereby supporting competitiveness, innovation and creativity in the European Union (EU).

The Office ranked as the most innovative IP office (IPO) in the world for three years in a row (2017, 2018 and 2019) in the list of the leading 50 IPOs across the world developed by the World Trademark Review (WTR). According to the WTR, ‘With its collaborative approach, the EUIPO is well-known in the trademark community for its cutting-edge tools and partnerships with IP offices.’⁽¹⁾

2020 was a challenging year for the Office, not only due to the conclusion of the Strategic Plan 2020 (SP2020) and the launch of the new [Strategic Plan 2025](#) (SP2025), but also because it was a year of constant change and adaptation.

The Office received close to 15 000 trade marks applications per month in 23 languages with registered users from 200 countries and regions around the world. The top ten countries represent 73.43 % of all EU trade mark (EUTM) and 78.78 % of all registered Community design (RCD) filings. The Office’s extensive investment in IT modernisation programmes over the years allowed it to quickly adapt and update its services to the conditions triggered by the COVID-19 pandemic.

EUTM filings - TOP 10 COUNTRIES - RCD filings

 1 ↑ 3	2020: 28 689 2019: 15 264	 1 ↔ 1	2020: 20 138 2019: 19 037
 2 ↓ 1	2020: 24 990 2019: 22 695	 2 ↔ 2	2020: 19 901 2019: 14 317
 3 ↓ 2	2020: 17 455 2019: 18 141	 3 ↔ 3	2020: 12 508 2019: 12 507
 4 ↔ 4	2020: 14 013 2019: 13 023	 4 ↔ 4	2020: 10 253 2019: 11 502
 5 ↔ 5	2020: 11 361 2019: 11 134	 5 ↑ 6	2020: 6 092 2019: 6 145
 6 ↔ 6	2020: 10 328 2019: 10 712	 6 ↓ 5	2020: 5 729 2019: 6 216
 7 ↔ 7	2020: 8 201 2019: 8 952	 7 ↔ 7	2020: 4 800 2019: 4 765
 8 ↔ 8	2020: 5 635 2019: 5 554	 8 ↔ 8	2020: 4 555 2019: 4 690
 9 ↑ 10	2020: 4 903 2019: 4 350	 9 ↔ 9	2020: 3 872 2019: 4 313
 10 ↓ 9	2020: 4 340 2019: 4 478	 10 ↔ 10	2020: 3 384 2019: 3 495

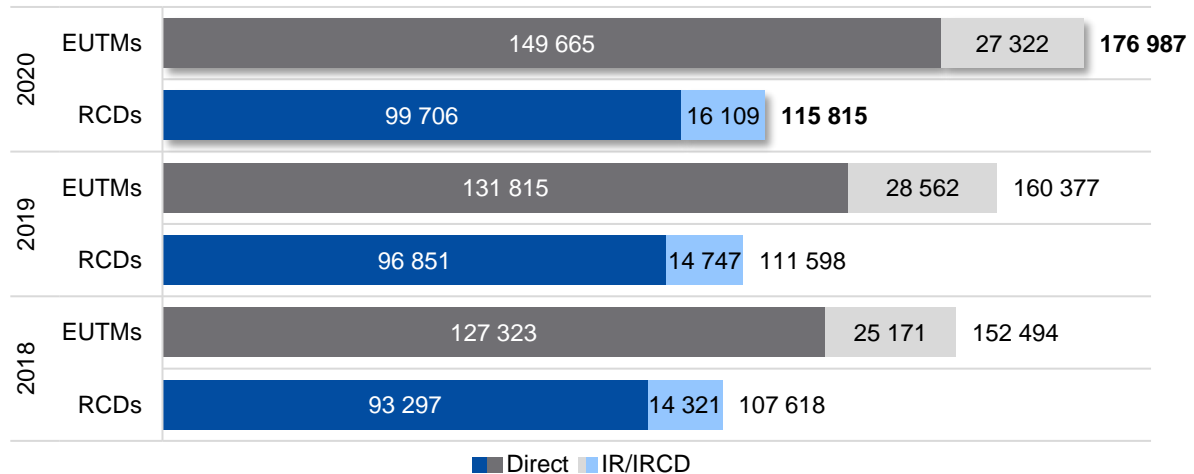
The Office expected to receive a total of 167 700 EUTM filings⁽²⁾ in 2020 (138 200 direct

⁽¹⁾ Quote from online article [Innovation at the EUIPO: spotlight on digital tools and services](#) (20/10/2020).

⁽²⁾ Registered EUTMs are valid for 10 years and can be renewed indefinitely for subsequent 10-year periods.

filings and 29 500 international registration (IR) filings through the WIPO Madrid System). In fact, it received a record 176 987 of EUTM filings despite the COVID-19 crisis. This represents an overall EUTM filings growth rate of 10.24 % compared with 2019. From the moment the first lockdown began in mid-March to the end of May, staff examined more than 30 000 new EUTM applications and more than 15 000 new RCD applications. In this scenario, direct EUTM filings increased by 13.47 %, despite the 4.60 % decrease reported in IR filings.

EUTMs & RCDs total filings (direct + IR/IRCD)

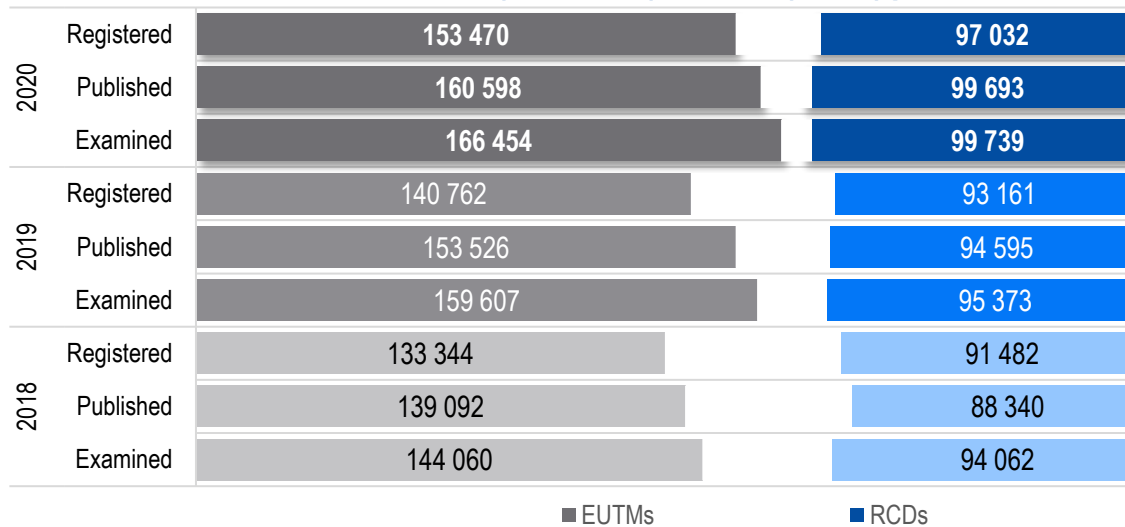


A somewhat lower trend also applies to RCDs⁽³⁾. The Office expected to receive a total of 111 350 RCD filings in 2020 (97 600 direct filings and 13 750 international registration (IRCD) filings through the WIPO Hague System). Instead, there were 115 815 direct and IRCD filings, an overall increase of 3.62 % compared with 2019. IRCD filings alone registered a 9.23 % increase in overall growth when compared with 2019.

With an average annual growth rate of 3.5 % over the past decade and nearly 1.5 million RCD filings since 2003, it is clear that EU designs are a force to be reckoned with in the global marketplace⁽⁴⁾.

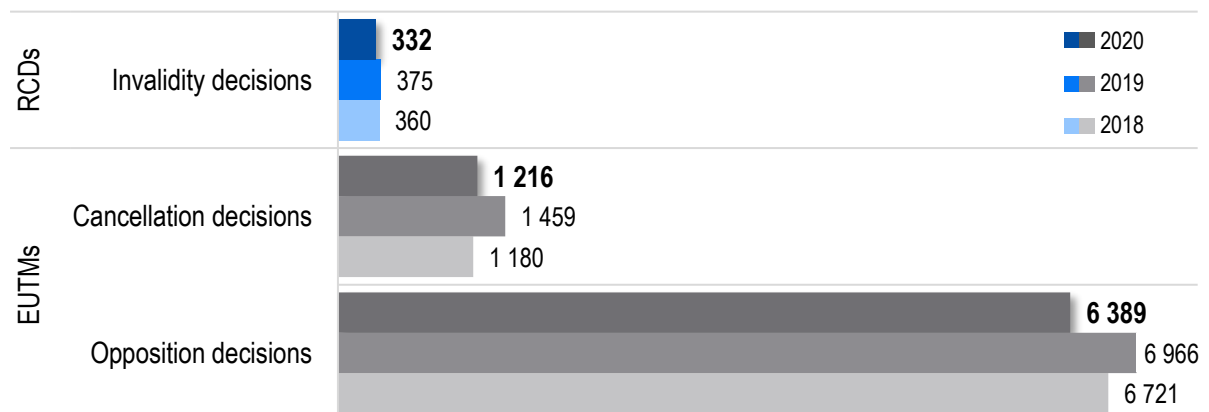
⁽³⁾ An RCD is initially valid for 5 years from the date of filing and can be renewed four times, in blocks of 5 years, up to a maximum of 25 years.

⁽⁴⁾ Source: [EUIPO Design Focus 2010 to 2019 Evolution](#).

EUTMs (direct + IR) & RCDs (direct) processed


Though most EUTM (direct and IR) filings proceed to examination, some may be rejected, withdrawn or subject to opposition proceedings. The Office received 18 881 oppositions to EUTM applications in 2020. It is expected that almost 2/3 of these will be solved through agreements reached between the parties, while the remaining will require a decision. In 2020, the Office notified 6 389 opposition cases.

There were 2 048 applications for cancellations of EUTMs. Around 60 % of cases (1 216) led to an Office decision on substance.

RCD (invalidity) decisions & EUTM (opposition & cancellation) decisions



Around 2 % of RCD direct filings were withdrawn or refused during the examination stage, and approximately 14 % had their publication deferred while the remainder were immediately published.

Finally, in 2020, the Office received 505 RCD invalidity requests and notified 332 RCD invalidity decisions ⁽⁵⁾.

⁽⁵⁾ For additional information on volumes (i.e. renewals, recordals and inspection requests) please refer to Consolidated Annual Activity Report 2020: Appendix A. Performance Data.

Implementation of Strategic Plans

Considering that 2020 saw the closure of SP2020 and the start of the new strategic plan 2025, the new strategic key impact indicators (SKIIIs) have been reorganised to provide an overview of the Office's achievements and project implementation rate⁽⁶⁾ in alignment with the three SP2025 strategic drivers (SDs): *interconnected, efficient and reliable IP system for the Internal Market; advanced customer-centric services; and dynamic organisational skill sets and innovative workplace of choice.*



Strategic key impact indicators	2018	2019	2020 ⁽⁷⁾
Multi-office user expressing satisfaction with the network convergence (%)	65.0	65.0	67.0
National offices' satisfaction with ECP tools (%)	78.0	78.0	78.0
Satisfaction of EU institutions and bodies (%)	N/A	N/A	100.0
Stakeholders satisfied with EU-funded projects (%)	83.7	87.4	81.7
Quotations of Observatory studies and reports by EU institutions (#)	144	177	260
User overall satisfaction (%)	89.0	89.0	88.0
User awareness of the Office's Guidelines (%)	77.0	77.0	68.0
EU SMEs' trade mark and design filings	N/A	N/A	N/A⁽⁸⁾
SMEs' satisfaction with the services provided by the Office (%)	N/A	N/A	84.6
KU satisfaction with the Key User Programme (%)	N/A	N/A	81.0
Staff engagement (%)	82.0	82.0	79.0
Staff awareness of anti-fraud strategy (%)	70.0	70.0	65.0
Incoming and outgoing electronic communication with users (%)	92.0	93.6	93.9
Greenhouse gas emissions per onsite worker (tCO ₂ eq/onsite worker)	2.1	2.52	2.0

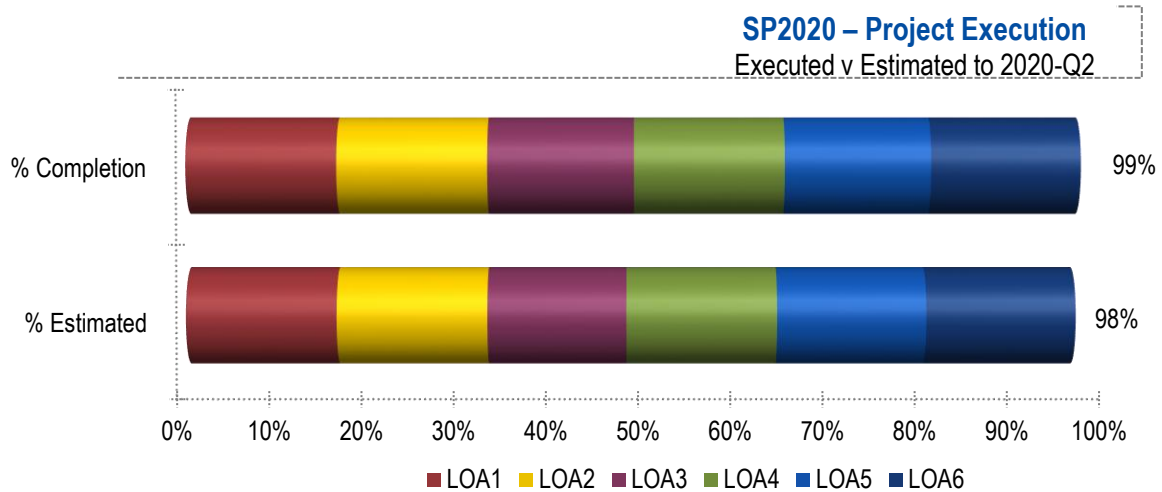
⁽⁶⁾ Apart from the SKIIIs, the Office measures its efficiency through other key performance indicators (KPIs) detailed in the Annual Report 2020: Appendix A. Performance Data (i.e. Volumes, Service Charter and Balanced Scorecard).

⁽⁷⁾ **Green** = Excellence; **Blue** = Compliance; **Red** = Action Needed; and N/A = Not Applicable (new indicator).

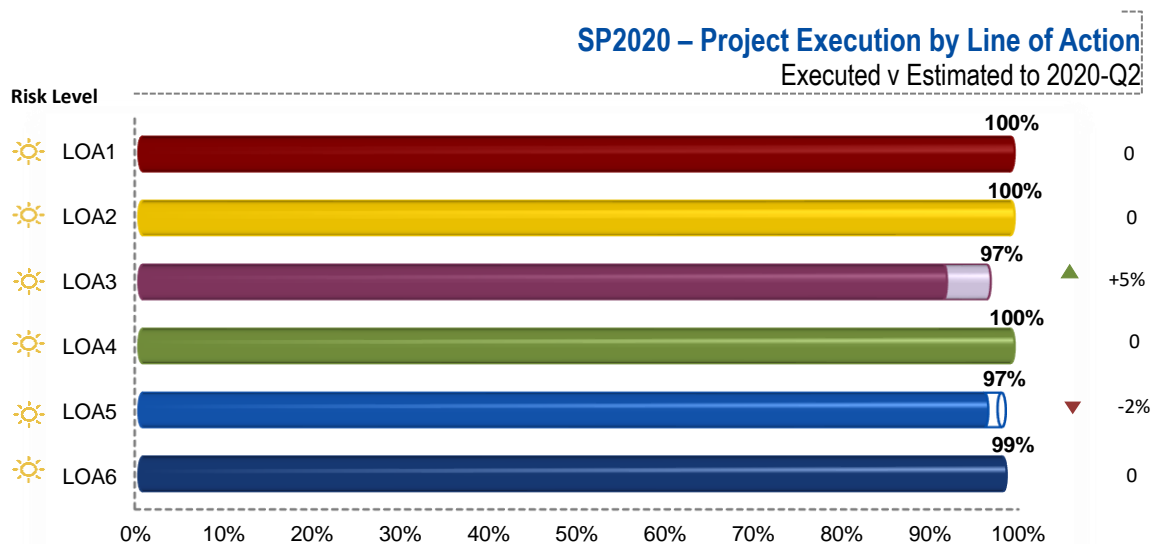
⁽⁸⁾ The SME information required to report this indicator is not yet available due to lack of consolidated data at the inception of the programme. The indicator will be reported for the first time during 2021.

SP2020 Project Execution

Execution of the Office’s strategic plans is based on approved project plans. The execution rate of SP2020 is shown in the tube charts below. The first chart corresponds to the overall progress of the programmes and projects under all the combined Lines of Action (LoAs). The execution rate was 99 % as a result of the closure of the SP2020 at the end of June.



The next chart below reports progress by overall execution rate and risk level broken down by strategic projects under each LoA. As shown, 4 out of the 6 LoAs were fully executed as estimated; LoA 3 exceeded its estimated execution rate by 5 %; and LoA 5 fell short by only 2 %, pending the completion of the administrative closure cycle for a few projects.

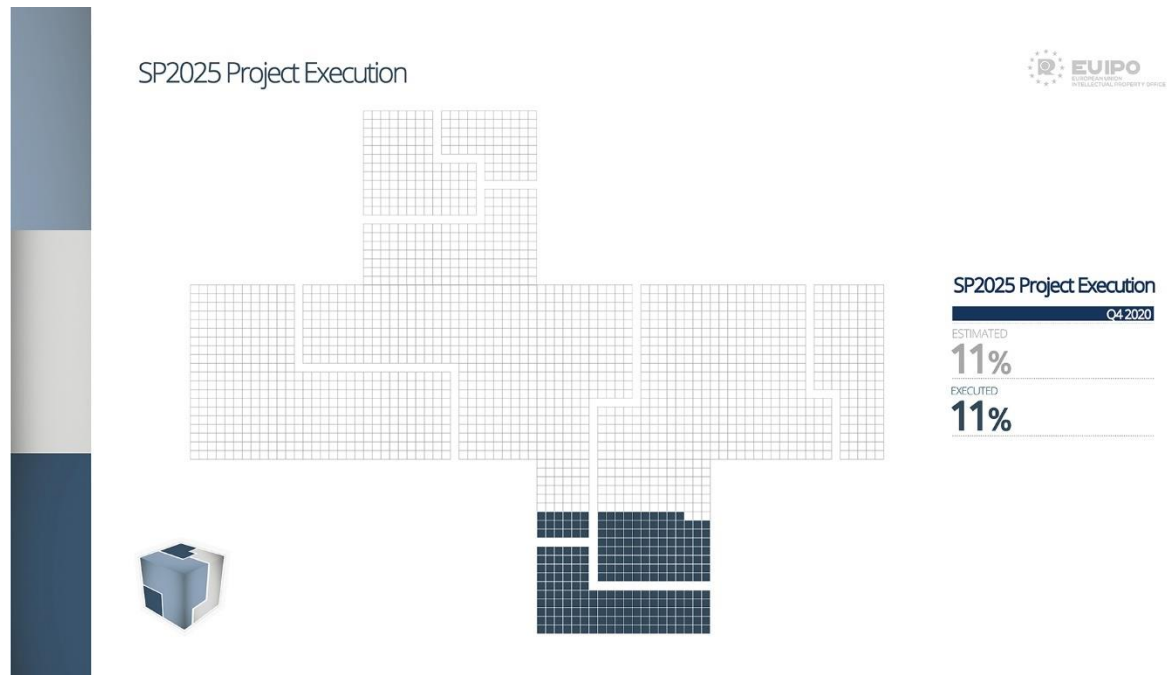


SP2025 Project Execution

As mentioned above, the new strategic plan is based on three interdependent SDs –

represented by ‘a cube’ – that focus respectively on the Office’s stakeholder groups and the internal evolution that will be required. The SP2020 ‘tube charts’ have been replaced by ‘cube charts’, providing a graphical overview of the progress made for all strategic projects aggregated at both SD and SP2025 levels, in line with the visual style of SP2025.

The Office’s SP2025 started in Q3 2020⁽⁹⁾. The chart below takes into account the progress of the strategic plan in its entirety. The overall execution outlook (11 %) was a result of the new strategic plan launching halfway through the year. Nonetheless, the completion rate was maintained despite the COVID-19 crisis.



Charts depicting the progress and risk level of the strategic projects under each SD are included in the introductory section for each SD.

Key Achievements in 2020

The SP2025 builds upon its predecessors by continuing to solidify the value of the European Union Intellectual Property Network (EUIPN) for the benefit of users. It focuses on key areas highlighted in close consultation with user associations (UAs), National IPOs and the Benelux Office for Intellectual Property (BOIP), staff and the general public.

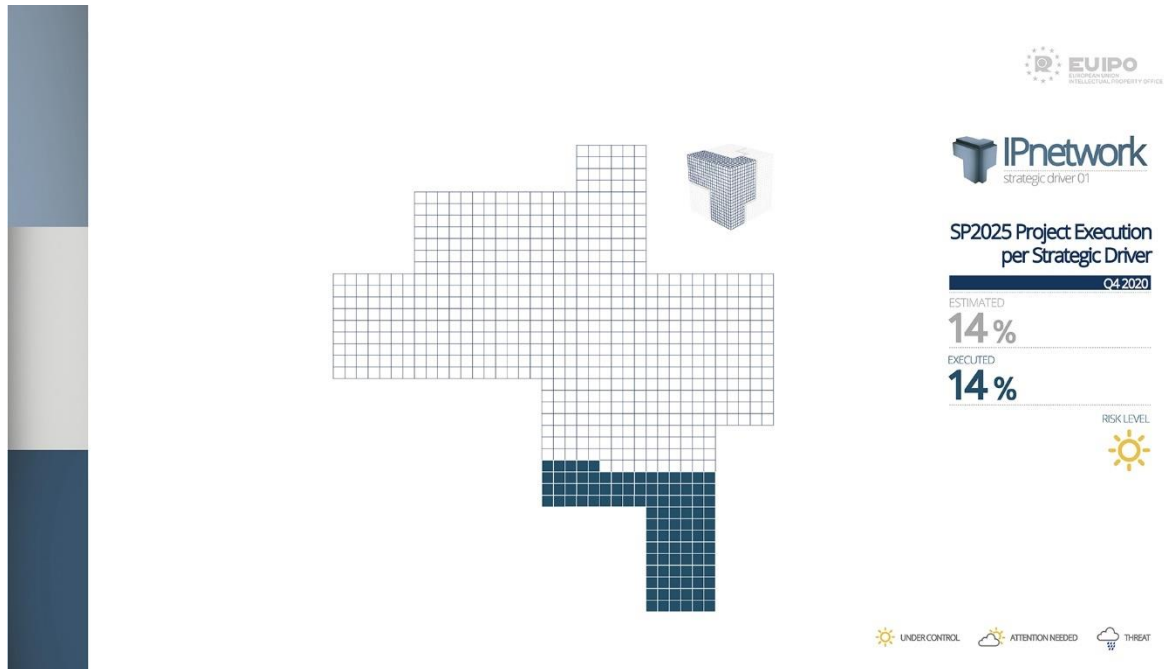
Strategic Driver 1 IPnetwork

The first SD, *Interconnected, efficient and reliable IP system for the Internal Market* (SD1 IPnetwork), sets out how the Office intends to build upon the networks created to improve the IP system, during a period when technology and global forces are changing the IP landscape. It is built around three main goals: matching tools and practices with users’ needs; stepping up IP enforcement in defence of rights holders and society; and developing an IP

⁽⁹⁾ In addition to the new graphs designed to better illustrate the progress of the SP2025 strategic projects, a weighting factor related to the projects’ budget has been added both to the execution and the planning formulae to represent the scope in a more objective manner.

knowledge hub.

The following chart depicts the execution rate of the strategic projects under SD1 ⁽¹⁰⁾ by progress and risk level. In this case, not only did the Office complete its estimated projection, it also managed to perform additional activities, in spite of the COVID-19 lockdown.



Stakeholder Relationship Management⁽¹¹⁾

In view of the progressive COVID-19 lockdown situation in the vast majority of EU Member States (MS), the Office supported and promoted the work and the results of the EUIPN by holding and contributing to IP-related events in close connection with its major stakeholder groups: users (IPR holders, applicants and representatives), institutions (EU institutions, UAs, National Offices and enforcement authorities) and society (the general public, local community, media, academic community, among others).

A stakeholder continuity plan was implemented to maintain constant communication and continued cooperation with the EUIPN members and other institutional stakeholders; new communication channels were set up and others improved, including monthly contacts with MS IPOs and the BOIP, EU institutions and UAs.

The Office’s Executive Director held high-level meetings with European Commission (EC) and European Parliament representatives to seek opportunities to contribute to the EC’s IP policies and protection of IPRs. The topics discussed, among others, were:

- the SP2025;
- cooperation activities with EU institutions and agencies – including pre-examining

⁽¹⁰⁾ For detailed information on the strategic projects under SD1 please refer to the table at the end of this section.

⁽¹¹⁾ Reference relevant for GRI Disclosures 102-40, 102-42, 102-43 and 102-44 (additional data also included in the 2020 [GRI Content Index](#)).

geographical indication (GI) files and launching Glview⁽¹²⁾ in collaboration with DG AGRI;

- actions to support SMEs;
- the EU's external policy;
- cooperation on enforcement;
- the Digital Services Act.

In May, the Office hosted the first online session of the 23rd Liaison Meeting on Trade Marks. The participants included over 80 experts from MS IPOs, candidate countries and members of EFTA, as well as representatives from the EC and Users Associations. The session covered an exchange of views on COVID-19 related trade mark applications.

The Office held three online sessions for the 15th, 19th and 24th Liaison Meetings on Cooperation, Designs and Trade Marks, respectively, contributing significantly towards the continuous development and sustainability of the EUIPN.

In addition, the Office held five online sessions to celebrate the 28th and 29th User Group meetings. The sessions included discussions on:

- the results of the European Cooperation Projects (ECPs) under SP2020;
- the revision cycle and consultation process of the Office's Guidelines;
- procedural malpractices to circumvent the mandatory representation before the Office;
- the SME Programme and its links to ECP6.

European Cooperation

The main focus of the European Cooperation Projects ([ECPs](#)) is to maximise the benefits of common tools, converged practices and collaborative networks, providing users across the EU with modern, state-of-the-art tools and services through MS IPOs.

Pursuant to Article 152(2) EUTMR⁽¹³⁾, the Office continued to implement the current set of five ECPs defined by the Management Board under the SP2020: *ECP1 Consolidate the implementation of EUIPN tools*; *ECP2 Improvement and upgrade of EUIPN tools*; *ECP3 New tools*; *ECP4 Convergence of practices*; and *ECP5 Sustainability of the Network*. In doing so, the Office ensures business continuity within the EUIPN and guarantees the opportunity, for those IPOs that wish to do so, to implement these projects during the new strategic cycle. Furthermore, three new ECPs were adopted by the Management Board in November 2019 to support and complement a number of strategic initiatives: *ECP6 Supporting SMEs*; *ECP7 Supporting the transposition of the Trade Mark Directive*; and *ECP8 Collaborative services*⁽¹⁴⁾. The official kick-off of the abovementioned projects gathered 250 experts from the EUIPN participating in 13 working groups focusing on building a strong and reliable EU IP system.

By the end of 2020, the ECPs led to 890 implementations of Office tools and practices, including 228 implementations of Common Practices, 57 of which were for CP8, CP9 and CP10.

⁽¹²⁾ Glview is a new search tool that provides comprehensive information on geographical indications (GIs) protected within the EU <https://www.tmdn.org/giview/>

⁽¹³⁾ [Regulation \(EU\) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark.](#)

⁽¹⁴⁾ Please refer to the table at the end of this section for additional information on the status of all European Cooperation-related strategic projects.

International Cooperation

The Office broadened its cooperation framework outside the EU by implementing both EUIPN and Office tools and practices in regions where the EU's priorities so require it and in alignment with the content of Free Trade Agreement (FTA) negotiations to support the EU's policy making bodies.

A number of projects where the Office plays a leading or participating role were discussed at the online TM5 and ID5 meetings that took place over the summer with the participation of the world's five largest trade mark and designs offices: the China National Intellectual Property Administration (CNIPA), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the United States Patent and Trademark Office (USPTO), and the Office. The TM5 and ID5 partners adopted a joint message on their response to COVID-19 reaffirming their commitment to assist trade mark and design owners and users. Their collaborative efforts focused on working towards more user-friendly and interoperable trade mark and design systems, providing reliable customer-centred services and supporting SMEs.

The *Extension of tools and support to Observatory in non-EU countries* project was completed during the first semester of 2020. More implementations will be facilitated under SP2025 through EU-funded projects in non-EU countries on behalf of the EC. They will support bilateral cooperation activities underpinning the existing 46 memoranda of understanding (MoUs) with non-MS IPOs or regional organisations. The project covered the extension of [TMview](#), [DesignView](#), [TMclass](#) and [DesignClass](#), and other EUIPN tools (e.g. CESTO, Forecasting, User Satisfaction Survey, Quality Standards and Front Office). It also covered support provided to Observatory activities in non-EU countries.

The latest additions to the user base of these EUIPN search and classification tools have brought the number of participating national and regional IPOs to:

- 74 for TMview;
- 72 for DesignView
- 81 for TMclass (including 54 non-MS IPOs with 13 using the Harmonised Database);
- 40 for DesignClass (including 13 non-MS IPOs).

The Office and CNIPA also signed a data exchange agreement that sets the basis for CNIPA to share Chinese trade mark data on the TMview platform, making it available for consultation 24/7 worldwide. By the end of 2020, the Office had received the first batch of CNIPA trade marks (i.e. 6.5 million) from a total of 28 million registered Chinese trade marks to be included in TMview.

Furthermore, the Office continued activities identified in the MoUs with the European Patent Office (EPO) and the World Intellectual Property Organisation (WIPO). Meetings were held at technical and senior management levels, focusing on:

- aligning databases;
- the WIPO virtual conference on COVID-19;
- the new ECP1 to 8;
- exploring synergies around joint events and projects;
- enforcement-related activities carried out by the Observatory.

EU-funded Projects

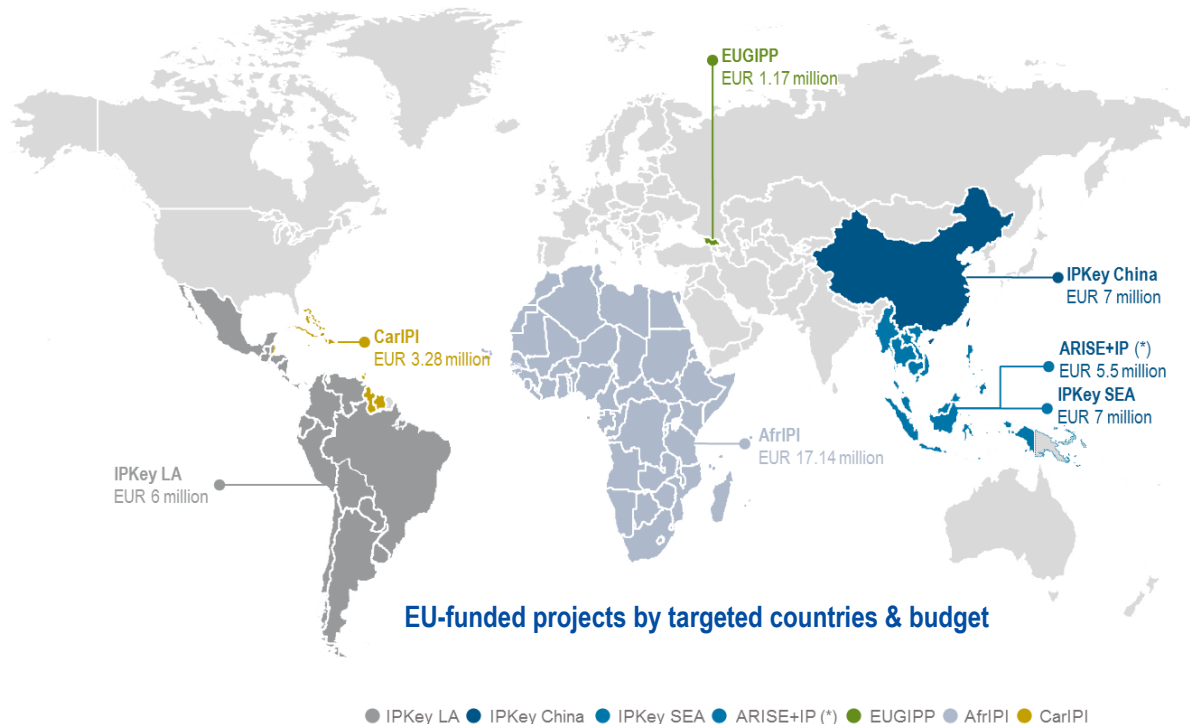
The Office promotes a more level playing field for European businesses operating in Africa, Latin America, South East Asia, the Caribbean, China and Georgia by contributing to greater transparency through improving IPR protection and administrative and enforcement systems. To this end, activities are carried out in close cooperation with the EC and the Office's partners in third countries.

The EU-funded projects submitted contingency plans to the EC for the virtualisation and/or re-scheduling of activities due to the COVID-19 crisis. In this context, the [ARISE+IPR](#) programme reported that it had implemented close to 10 % of its 2020 annual working plan (AWP). The IP Key initiatives implementation rates for the 2020 AWP were:

- 83 % for IP Key Latin America;
- 73 % for IP Key South East Asia;
- around 51 % for IP Key China.

The seemingly slow path of implementation in ARISE + IPR and IP Key China was mainly due to the launch of many studies, prioritised by the EC, due to the COVID-19 crisis.

Furthermore, the range of activities, such as IPR examination practices and adherence to international treaties, created an ideal context for cooperation with EU partners, such as the EPO, the Spanish and French IPOs, to share best practices with Latin American stakeholders.



In 2020, the Office launched new IP projects to build upon the success of the existing ones (ARISE+IPR project and [IP Key](#) projects in Latin America, South East Asia and China). The new projects cover:

- Africa – Intellectual Property Rights for Africa ([AfrIPI](#));
- the Caribbean – CARIFORUM Intellectual Property Rights and Innovation ([CarlPI](#));

- Georgia – EU-Georgia Intellectual Property Project ([EUGIPP](#)).

The inception phases agreed with the EC have been completed and implementation is in line with the work plans for each project adopted by the project steering committees.

Following the conclusion of its inception phase in September 2020, the AfriPI project completed 10 % of its first AWP, thus contributing to facilitating intra-African trade and African and European investment.

In 2020, CarIPI fully implemented its first AWP, achieving significant results: Suriname signed the Geneva Act of the Hague Agreement; St Kitts and Nevis and the Dominican Republic joined TMclass, and the latter also put in place the Plant Varieties Rights (PVR) registration framework, in conformity with the Union for Protection of New Varieties of Plants, and awarded the first PVR certificates.

The EUGIPP completed its first AWP, integrating the Office's Harmonised Database (HDB) ⁽¹⁵⁾ terms in Georgian into TMclass, aligning with all common practices of the EUIPN, promoting IP in Georgian schools and starting work on examination guidelines and studies in the area of legal approximation.

Finally, the Office took the commitment during 2020 to increase its contribution to these projects up to 30% of the total budget. During 2021, the agreements with the Commission will be progressively amended to reflect this commitment (in 2020 only AfriPI's budget was increased to a total of EUR 17.14 million).

EU Agencies Network

From the beginning of the COVID-19 outbreak, the members of the [EU Agencies Network](#) (EUAN) worked together to discuss options to respond to the pandemic and future outlook.

The Office actively participated in the EUAN's thematic working groups, finalising work related to indicator definitions, quality management best practices, impact definitions, programming documents, shared services and risk management peer review inside clusters of institutions and agencies. The groups sought the network's approval before the end of the chairing term of the European Centre for Disease Prevention and Control (ECDC) and under the European Chemical Agency's new chairing role.

As one of the audited EU agencies, the Office contributed to the European Court of Auditors' audit on the performance of EU Agencies ⁽¹⁶⁾ and has been closely monitoring developments in this area. The report takes a favourable view of the fact that the Office's Management Board includes two voting members appointed by the European Parliament, considering that this increases accountability and efficiency in decision making. It also confirms that the Office is among a small number of agencies empowered to take decisions and cooperate with other agencies in sharing services. It further acknowledges the good information system in place, in the form of dashboards, quarterly reports and other methods, by which the Office regularly reports to stakeholders on qualitative and quantitative performance.

(*) Observer – Papua New Guinea.

⁽¹⁵⁾ The [HDB](#) contains more than 70 000 terms from which users can select the goods and services for their trade mark applications. As it is used in the Office's online trade mark registration process, picking a term from the HDB will increase the chance of trade mark applications being accepted.

⁽¹⁶⁾ Special Report 22/2020: Future of EU agencies – Potential for more flexibility https://www.eca.europa.eu/Lists/ECADocuments/SR20_22/SR_Future_of_EU_Agencies_EN.pdf

Additionally, the report recognises that the Office has made significant progress towards activity-based management, which entails regularly updating scoreboards combining budgetary and performance information, and that it is one of the few agencies with clear impact indicators assessing timeliness, quality and accessibility of the services provided.

Although not directly affected by the discharge exercise carried out by the European Parliament, the Office has been closely monitoring the fee collection and alleged conflict of interest issues in the preparation of the 2018 Discharge Report.

Finally, the Office and the Community Plant Variety Office (CPVO) are considering adopting a Service Level Agreement (SLA) to extend their cooperation further since their multiannual cooperation MoU is coming to an end.

The Observatory

Regulation (EU) No 386/2012⁽¹⁷⁾ gives the Office a wide range of tasks in research, communication, dissemination of best practice and support for enforcement of all intellectual property rights. The Observatory network carries out these tasks. It is made up of public and private sector representatives and civil society associations.

The Observatory working groups were set up on the basis of proposals by stakeholders to help guide the implementation of projects that are part of the Observatory Work Programme⁽¹⁸⁾. Their fields of work range from legal matters, improved evidence building, public awareness raising and enforcement-related matters, to the growing number of issues surrounding IP in the digital world.

The Office's public awareness raising efforts to target European citizens and youngsters mainly focus on (1) contributing EUR 1 million to national awareness raising projects selected from an open competitive call for proposals; and (2) the [Ideas Powered](#) initiative, engaging youth in online and offline discussions on IP-related issues that have an impact on their lives.

Under the Ideas Powered initiative, the [IP in Education](#) project – aimed at enhancing the creativity, innovation and entrepreneurship of young Europeans by bringing IPRs and IP-related topics closer to classrooms – has expanded. This was a result of the work of the [IP in Education network](#) being acknowledged by the 28 Ministers of Education in their Council conclusions on moving towards a vision of a European Education Area, issued in 2018⁽¹⁹⁾. It gained further political backing following the adoption on 30 November 2020 of Council conclusions on digital education in Europe's knowledge societies.

In response to the threat of counterfeited COVID-19 related products, the Office cooperated with Europol, the European Anti-Fraud Office (OLAF) and the European Commission on specific knowledge-sharing and other support initiatives for enforcers (e.g. awareness sessions on counterfeit vaccines and actions against fake medical products), in collaboration with the private sector, mainly pharmaceutical companies.

⁽¹⁷⁾ Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office with the tasks related to the enforcement of IPRs, including the assembling of public and private sector representatives as a European Observatory on Infringements of Intellectual Property Rights (the [Observatory](#)).

⁽¹⁸⁾ For more information on the Observatory's activities developed in 2020 within the framework of the extension of the multiannual programme, please refer to Appendix E. Observatory - Annual Activity Report 2020

⁽¹⁹⁾ [Council conclusions on moving towards a vision of a European Education Area](#) (2018/C 195/04).

The Observatory helped enforcers and rights holders exchange relevant information on counterfeiting of COVID-related products through the use of the [IP Enforcement Portal](#) (IPEP), a single EU platform for rights holders, enforcers, the EC and its delegations to deal with IP enforcement matters.

In cooperation with the EC (DG TAXUD/OLAF), new modules on IP training for customs and police officers were developed for the [Virtual Training Centre](#). This was an important part of the follow-up process on the IPEP developments to increase its use by enforcers and rights holders with ad hoc training activities and information sharing.

The extent, scope and consequences – both economic and non-economic – of IPR infringement in the EU were covered in the findings of the [2020 Status Report on IPR infringement](#). This report was prepared by the Observatory and reached an extensive audience as part of a pan-European media campaign on the occasion of the World Anti-Counterfeiting Day. The report discusses the:

- economic value of IPRs in the EU economy;
- extent to which this value is exploited;
- infringement mechanisms used to capture that value;
- actions taken in response to these challenges.

It also highlights the involvement of organised crime groups based on cases investigated by Europol.

The Office's initiatives to adapt its services to the growth of IP in the digital world⁽²⁰⁾ were examined with representatives from e-commerce marketplaces during a first exploratory workshop to discuss opportunities and further actions. The feedback from the marketplaces was positive on three areas envisaged for cooperation: (1) developing information resources on the benefits of IP protection, (2) developing technical solutions to facilitate access to IP protection programmes, and (3) information exchange with IPR holders.

The scope of the international cooperation activities the Observatory contributes to is based on priority areas identified by its expert group on international cooperation; notably capacity-building, public-private cooperation and outreach.

The Observatory follows a project-based approach that involves cooperation with stakeholders at various levels. Within this framework, meetings are crucial to ensure that agreed projects and activities receive expert support and are managed appropriately.

Prior to the COVID-19 outbreak, the Observatory held its public sector representatives meeting in Zagreb, in the context of Croatia's Presidency of the EU. The remaining mandatory meetings with Observatory stakeholders in 2020 (pursuant to Regulation (EU) No 386/2012) were held online due to the COVID-19 lockdown (e.g. the annual meeting with private sector representatives and the Observatory's plenary meeting).

⁽²⁰⁾ [Council conclusions on digital education in Europe's knowledge societies](#) (2020/C 415/10).














SD1 – STRATEGIC PROJECTS UNDER SP2020 AND SP2025 ⁽²¹⁾

Expected outcomes	Progress in 2020 (*)	
EUROPEAN COOPERATION		
ECP1 CONSOLIDATE THE IMPLEMENTATION OF EUIPN TOOLS		
A more harmonised and convergent IP system in Europe	Common Harmonised Database on Product Indications in DesignClass fully implemented in all MS IPOs	
	All common flagship tools (TMview, DesignView, TMclass/HDB and DesignClass) incorporate all MS IPOs data	
	Image search option in TMview covers 26 national and regional MS IPOs	
	Continued support to the Front Office network comprising 21 MS IPOs	
	Back Office solutions implemented in 12 IPOs with 6 more under way (Austria, Denmark, Hungary, Portugal, Slovenia and Sweden); Front Office solutions implemented in 21 IPOs across Europe	
ECP2 IMPROVEMENT AND UPGRADE OF EUIPN TOOLS		
Improvements to the administration tool and business statistics module	Revamped user interface versions of TMview and DesignView available based on user feedback	
	New versions let authenticated users add alerts on changes for trade marks and designs and monitor the results of saved searches	
	Significant reduction in data inconsistencies – 95 % and 77 % current compliance – in TMview and DesignView, respectively	
	User Area Phase 1 Community version completed, including self-registration, account management, integration with Front Office and draft applications	
ECP3 NEW TOOLS		
Build a tool that operates with and without connection to a back office system and will facilitate the decision drafting process	Completed first stage (development of drafting tool and template manager) of the Decision Desktop tool	
	Implementation of the IP User Repository in pilot offices and first completion in the Slovenian office	
	ECP3 Academy e-learning project concluded with the delivery of 139 courses in cooperation with UAs and MS IPOs	
ECP4 CONVERGENCE OF PRACTICES		
Development of common examination standards and practices in cooperation with national and regional IPOs in the EU	Rebranding of ECP4 'Shared services and practices' to 'Convergence of practices'	
	The MB/BC adopted the following Common Practices (CPs) addressing areas of trade mark practice: CP8 (Use of a trade mark in a form differing from the one registered – implemented in 12 MS IPOs – and the Office), CP11 (New types of trade marks: examination of formal requirements and grounds for refusal – implementation pending), and the first convergence initiative in the area of appeal proceedings CP12 (Evidence in trade mark appeal proceedings – implementation pending). The following CPs were implemented: CP9 (Distinctiveness of three-dimensional marks (shape marks) containing verbal and/or figurative elements when the shape is not distinctive in itself – implemented in 25 MS IPOs – and the Office) and, focusing on the area of designs, CP10 (Criteria for assessing disclosure of designs on the internet – implemented in 20 MS IPOs – and the Office).	






(*)  = task completed;  = task on target;  = task delayed.

⁽²¹⁾ For more information on the strategic projects under SD1, please refer to the following [page](#) on the Office website.

SD1 – STRATEGIC PROJECTS UNDER SP2020 AND SP2025 ⁽²¹⁾

Expected outcomes	Progress in 2020 (*)	
	The MB/BC launched two new subprojects: (1) Convergence Analysis 2.0 and (2) Maintenance of Common Practices . Within Convergence Analysis 2.0 , the working group agreed on five new convergence projects to be recommended for launch: CP13 to CP16 addressing areas of trade mark practice, and CP17 in an area of designs. Within Maintenance of Common Practices , a monitoring and reporting system aimed at preserving and promoting Common Practices was set up.	
ECP5 SUSTAINABILITY OF THE NETWORK		
Continued support on project and quality management development as well as technical capabilities of IPOs	Rebranded ECP5 'Supporting the Network' to ' Sustainability of the Network ' 10 MS IPOs successfully ISO 9001:2015 certified Training courses for project management certification adapted to online format due to the pandemic; to date 17 MS IPOs have attained a total 635 certifications in PRINCE2® methodology Seven national offices completed the ' Capture and store historical files ' subproject focusing on the digitalisation of files Emerging Technologies Incubator launched with the participation of 13 members of the working group from MS IPOs, EPO, WIPO and UAs	    
ECP6 SUPPORTING SMEs		
Make use of the EUIPN and particularly of the unique position of IPOs to address SMEs	2020 mapping report 22 IPOs included in 69 SME-focused activities in the 2021 Cooperation Agreement EUIPN members increased interaction and consultation on the SME instruments of the SME Programme	 
ECP7 SUPPORTING THE TRANSPOSITION OF THE TRADE MARK DIRECTIVE		
Shared information and technical expertise and assistance to promote the interoperability between trade mark procedures in the EUIPN	First two subprojects (TMD implementation support with tools and TMD implementation support with training) have been grouped and assigned to a single team TMD implementation support with tools – development of the first TMD New Tools Feasibility Study in cooperation with ECP2 and coordination with CP11 TMD implementation support with training – webinars selected and TMD Training Catalogue developed for 2021-2022 based on working group members' recommendations Prepared first draft of the Common Index for the IP legislative and practice repository	   
ECP8 COLLABORATIVE SERVICES		
Support the follow-up and maintenance of common tools and practices delivered in previous strategic plans	Kick-off of the working group for ECP8 PEER Coordination (coordinating the launch of PEER projects to extend shared services across the EUIPN) to create networks of IP experts to collaborate in work streaming of specific areas related to EUTMs and RCDs The Municipality of Thessaloniki became the first certified 'Authenticity' to join the European Network of Authenticities, followed by Sofia and Plovdiv (Bulgaria) Received letters of intention to participate from 11 IPOs	  
IP ENFORCEMENT		
EU IPR ENFORCEMENT PORTAL 2025		
A single, free, multilingual and secure EU platform to deal with IPR enforcement matters	Deployment of the new IPEP versions which let traders access IPEP through the EU Customs Traders Portal and adaptation of the IPEP application for action (AFA) process to align it to the new amendment included in Implementing Regulation (EU) No 1352/2013	

SD1 – STRATEGIC PROJECTS UNDER SP2020 AND SP2025 ⁽²¹⁾

Expected outcomes	Progress in 2020 (*)	
	Further development of IPEP to prepare for version allowing full electronic application for action (e-AFA) management, including AFA requests, extensions, visualisation and amendment through the EU Customs Traders Portal	
	IPEP received the Service Organization Control (SOC) 2 data security certification for its <i>Exchange Information</i> module (former EDB) for another consecutive year	
THE OUT-OF-COMMERCE WORKS PORTAL		
Build a new portal founded on the experience of the orphan works database ⁽²²⁾ and its infrastructure	Analysed and defined requirements for the portal in collaboration with the EC, the MS and other relevant stakeholders	
	IT procurement procedure launched and IT development started following the definition of requirements	
ANTI-COUNTERFEITING BLOCKATHON INFRASTRUCTURE		
Design and build an open authentication platform and protocol, using blockchain technology, to connect rights holders track and trace systems to enforcement systems	Preparation of a market analysis on anti-counterfeiting blockchain infrastructures by launching two feasibility studies (one focusing on rights holders' track and trace tools and the other one on customs or enforcement authorities)	

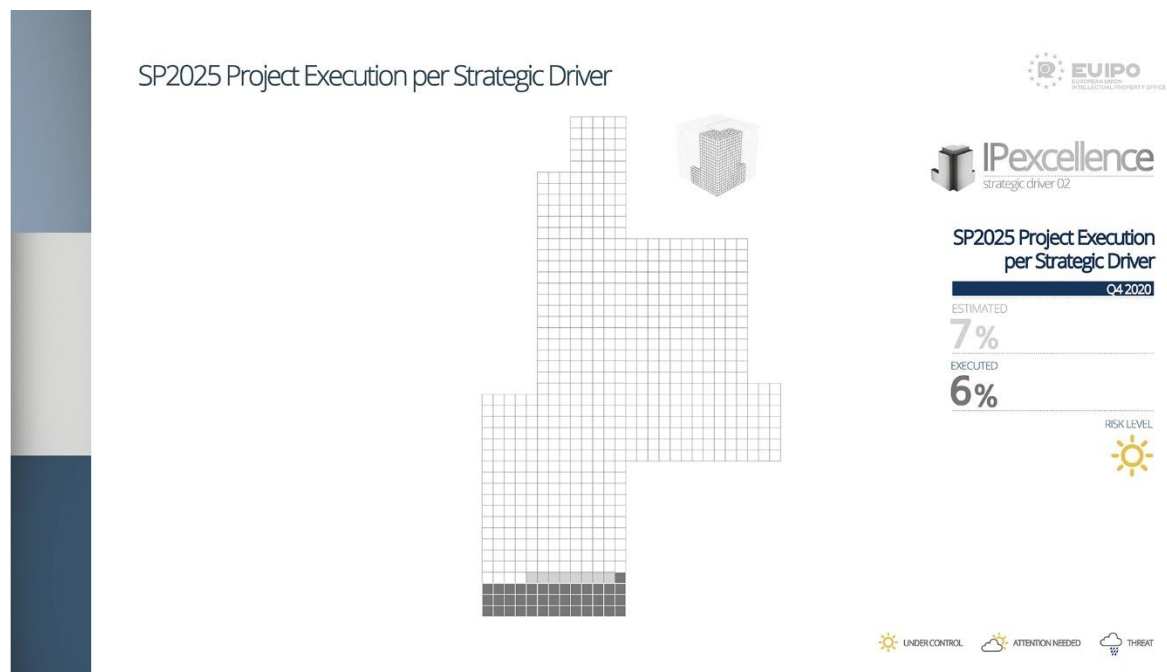
⁽²²⁾ As laid down in Directive (EU) 2019/790/EU of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market, the Office is responsible for establishing and managing a public single online portal for out-of-commerce works.

Strategic Driver 2 IPexcellence

The second Strategic Driver, *Advanced customer-centric services* (SD2 IPexcellence), guides the actions that will be taken to provide the Office's customers, including SMEs, large businesses and intermediaries, with state-of-the-art tools, services and guidance that they need to thrive in this new environment. It follows a tailored approach that targets the specific needs of different user segments and focuses on the following goals:

- improved customer experience;
- quality and efficiency;
- new services to increase added value to businesses;
- IP services for SMEs.

The chart below depicts the execution rate of the strategic projects under SD2 (23) by progress and risk level. Despite the COVID-19 crisis, and a number of unplanned activities that the Office carried out to support users and SMEs (i.e. the SME post-COVID Action Plan and the preparation for the SME Fund, among others), the Office succeeded in reaching an execution rate of only 1 % less than the estimated projection.



Management of IP Operations

The IP-related legal practice knowledge circles contribute to the predictability, reliability and sustainability of the EU IP system by:

- defining the Office's IP practice as reflected in the Guidelines;
- drawing-up and maintaining the Office's Guidelines;
- providing horizontal legal support in IP matters;
- contributing to the Office's quality initiatives and to EU cooperation activities.

(23) For detailed information on the strategic projects under SD2 please refer to the table at the end of this section.

The Team for Intellectual Property Protection (TIPP) further reinforces the Office's activities related to protecting and enforcing rights other than trade marks and designs (such as domain names, copyright, counterfeiting, goods in transit or anti-scam and misleading invoices, among others). As an example of this, new legal actions were launched in the Czech Republic, Hungary, Poland, Serbia, Spain and Turkey to protect users against the latest wave of scams. Some of these actions were carried out in close collaboration with the Italian and Spanish National Offices.

Due to the COVID-19 situation, the Office hosted its first-ever online – though fifth overall – annual meeting of the Anti-Scam Network, which was attended by nearly all network members and which, for the first time ever, enjoyed the active participation of Eurojust. The meeting sought to intensify cooperation to address new scams through legal actions.

The Office also made a series of organisational changes and digital transformation-related improvements to trade mark and design operations to enhance efficiency and quality and respond to the growing demand for trade mark and design registrations. Examination procedures for IRs were migrated from the old Madrid Protocol System tool to the IP Tool (resulting in the decommissioning of the former system after 15 years of service). Having not only international trade marks but all pre- and post-registration services related to first instance trade mark examination integrated in a single back office system made it easier to react swiftly to the significant volatility of requests in 2020, marked by the COVID-19 situation and the end of the Brexit transition period.

The second extension of time limits ([EX-20-4](#)) following the Executive Director's [Decision No EX-20-3](#), covering all procedural deadlines (including the opposition period) ended in May. The two extensions gave customers sufficient time to react and adapt their processes to the change in circumstances. Staff also responded well, and despite the critical increase of accumulated files – as a direct consequence of the extensions – these were quickly registered once the extended opposition period had expired. During the entire year, the Office's commitments were maintained as regards publication of all EUTM filings. By the end of the year, all KPIs were back on track despite the extra inflow of new EUTM direct filings that were up 20 % during the third and fourth quarters. The growth in RCD direct filings was particularly evident towards the end of the year, reaching a new record for filings in a single month (December). This was mainly due to Brexit, since applicants were taking the opportunity to register RCDs ahead of 1 January 2021, so as to obtain an equivalent UK design right after that date without having to pay an additional fee at the UKIPO.

The extension of deadlines in *inter partes* proceedings (EUTM oppositions and cancellations and RCD invalidity) following Decision No EX-20-3 led to an accumulation of stocks as the usual exchanges between the parties ceased. The end of the extensions abruptly reactivated the exchanges. The Office managed to reduce stock towards the end of the year.

Following the entry into force of the UK Withdrawal Agreement on 1 February 2020 and the UK's formal withdrawal from the EU, the actions of the Office's Brexit Action Plan (BAP) that were not subject to the transition were immediately executed, and the BAP part that was subject to the transition was updated in July. Measures taken to prepare for the UK's effective withdrawal at the end of the transition period on 31 December 2020 were activated. This was not affected by the last-minute entry into force of the EU-UK Trade and Cooperation Agreement. As a result, the Office effectively identified and planned the actions corresponding to all stages of this long process and successfully dealt with the consequences of the UK's withdrawal from the EU.

In relation to Brexit, requests to replace representatives and update UK users' information increased fourfold in December compared with the previous months. The rate of automation in this type of recordals (almost 80 %) helped considerably in dealing with the dossiers.

The constant implementation of new solutions in the back and front offices to increase automation and provide a better service to Office customers in the field of IPR management, resulted for the first time (during the last quarter of the year) in over 50 % of recordals being automated.

As of July, all pending cases for cancellation decisions were notified in compliance with the Office's timeliness standards. This meant it was possible to move resources from cancellation to other decision drafting areas to increase output and examine new EUTM and RCD filings. Timeliness and quality of opposition and RCD invalidity decisions, as well as the quality of cancellation decisions, were in compliance level throughout the entire year.

The publication of the Office's updated [Guidelines for Examination of EUTMs and RCDs](#) led to a 66.6 % increase in usage by National IPOs, UAs and other organisations. Most gratifying was the fact that user satisfaction in relation to the Guidelines soared over 90 % in terms of usefulness, clarity and user-friendliness, according to the latest 2019 [User Satisfaction Survey](#) (USS). The New Generation Guidelines aim to further increase the benefits for users by gradually introducing new features, such as cross-links to eSearch Case Law and the Regulations.

Other positive results obtained in the latest USS were the following:

- 86 % of users interviewed were satisfied with the services provided by the examiners (2 % more compared with the previous USS);
- 90 % were satisfied with the examination of EUTM applications;
- 83 % were satisfied with the examination of the classification of goods and services and absolute grounds (AG) for refusal;
- 82 % were satisfied with opposition proceedings and decisions (the same as before);
- 93 % were satisfied with the examination of design applications;
- 91 % were satisfied with the Office's IP management services.

Follow-up actions under implementation focus on further improving the quality and consistency of the Office's decisions and strengthening the exchange of knowledge among Office staff. In this context, in July [Decision No EX-20-06](#) of the Executive Director established a system of *ex ante* peer-to-peer reviews for AG.

Under the new Class-A(g)CT initiative, the Office explored new ways of being more customer oriented, sharing knowledge from different areas of expertise, initiating new working methods and new ways of communicating with customers. New quality initiatives were launched in AG examination. In particular, the 'AG2Review' initiative had its official kick-off in October. This initiative involves a peer review of a sample of outgoing objection letters. They are marked with a specific seal informing users that they have undergone peer review. This initiative has already had a positive impact on AG quality, as shown by the internal quality checks of the final refusals, with those that have been checked under the AG2Review showing a higher compliance rate than those that have not.

Quality is further strengthened through the [Stakeholder Quality Assurance Panels](#) (SQAP) and their aim to close the gap between the users' perception of the quality of the Office's decisions and its quality measurements. In 2020, 18 users representing 12 UAs met online to assess a sample of opposition decisions for compliance with the Office's quality criteria.

This exercise reported the best results thus far with 92 % of decisions reaching compliance or excellence levels. The latest SQAP audit on RCD invalidity decisions also revealed the best results ever in the history of these panels: all cases analysed were in ‘compliance’ or ‘excellence’ level. Additionally, the Office welcomed 18 users representing 11 UAs to their fifth audit (out of the sixteen SQAP audits that have taken place so far) on the quality of AG decisions, with much better results than the previous AG SQAPs and less decisions rated as ‘actions needed’. The Office is exploring the feasibility of extending SQAP to other products given the project’s unprecedented success. In fact, SQAP was selected as a finalist by the European Contact Centre and Customer Service Awards in the [‘Best Use of Customer Insight’](#) category.

The Knowledge Circle on Quality launched a mapping exercise to integrate and identify interrelations between existing components of the quality system for EUTM and RCD management and other measures and initiatives already in place Office-wide. The map captures the entire cycle of the Office’s IP product creation – from filing to decision – split into phases based on existing features that can determine, enable, control and measure quality. It seeks to support future initiatives to deliver better products and services by providing a high-level picture of the system.

Management of IP Litigations and Appeals

The high-quality defence of decisions and practice before the courts is a constant priority for the Office and instrumental to the Boards of Appeal (BoA) ⁽²⁴⁾ function in guiding the Office’s practice. This is reflected by the creation, in September 2020, of the Litigation Strategy Board (LSB). It is composed of representatives from both the decision-making and operational areas of the BoA. The LSB submits proposals to the BoA President on the Office’s representation in IP cases before the Luxembourg Courts and its contribution to preliminary rulings.

The BoA are responsible for independently deciding on appeals against first instance decisions concerning EUTMs and RCDs. Within the context of the volatility affecting EUTM applications and appeal filings, the BoA continued to ensure high-quality and efficient appeal proceedings as well as coherent appeal decisions for the benefit of users of the EU trade mark and design system.

In 2020, out of the 2 479 appeals filed, a very high number (around 93 %), were received by means of the e-Appeal system; 2 563 appeal decisions were notified (2 % more than in 2019); and the number of pending cases decreased to 2 267. The General Court’s confirmation rate of BoA decisions was 79.1 %.

The Rules of Procedure before the BoA (RoP) ⁽²⁵⁾ were approved and published at the beginning of the year. Existing procedural rules, which are currently spread out between various sources (such as regulations, case-law and internal decisions), are now easier to identify and apply, further increasing the predictability of the Office’s appeal proceedings for the benefit of users.

To improve the quality of the dispute resolution services and simplify complex aspects of the proceedings, the BoA are promoting the development of electronic tools designed with SMEs in mind (i.e. e-statement of grounds and solutions for the electronic management of evidence or a mediation and oral hearings online platform).

⁽²⁴⁾ Further details regarding the BoA can be found in the Appendix F – The BoA Annual Report 2020.

⁽²⁵⁾ A comprehensive set of articles intended to lay down the procedural rules governing appeal proceedings in a single document.

In accordance with Article 113 EUTMR, the BoA decisions are published on a daily basis in [eSearch Case Law](#) and [eSearch plus](#) to support transparency and predictability. The permanent data maintenance exercise that allows the virtuous cycle of quality and compliance with the EUTMR has been performed on a regular basis. Since the roll out of the enhanced domain-specific IP case-law machine translation engines, there has been a steady growth in the number of automatically translated decisions published and downloaded through eSearch Case Law.

Customer Management

The Office's customer-centric approach relies on staff providing high-level services, giving valuable information and guidance for users to optimise their use of the Office's tools and processes, and successfully integrating their feedback to increase their satisfaction with the products and services on offer ⁽²⁶⁾.

As a result of the COVID-19 crisis and in response to the difficulties experienced by customers when working from home, the Office accelerated all efforts to extend its e-communication so that interactions with the Office could be entirely online. Modern forms of communications that had already been partially deployed (such as online chats) were further extended to all users and other online tools and new services were provided to SMEs. Meanwhile, pursuant to [Decision No EX-20-9](#), obsolete means of communication were gradually phased out (a targeted communication campaign reaching 560 000 users was launched to inform them that faxes are no longer accepted).

The pandemic stimulated the adoption of innovative ways of interacting with customers. The Office's top management held a series of online meetings with customers to make up for the loss of the informal exchanges that normally took place during onsite events. These informal conversations allowed management to better assess customers' needs.

Customer satisfaction related to customer services and online tools is constantly measured via immediate feedback surveys. These surveys are complemented by regular USSs. The most recent USS was launched at the beginning of 2020. For the first time ever, it was available in 23 EU languages. 2 252 customers participated and expressed an overall level of satisfaction with the Office of 88 % ⁽²⁷⁾.

Customer engagement was further reinforced through the Office's IPforYou brand. In 2020, 25 engagement activities took place in collaboration with national and regional IPOs, reaching out to close to 2 500 customers and reporting an 88.1 % satisfaction rate. Events held in-person prior to the COVID-19 lockdown were transformed to online formats to ensure close interaction with the Office's customers.

In 2020, the Office launched a series of pilot online Customer Panels (on IP dissemination, the new [Key User Programme](#) (KUP), and payment services) intended to collect customer feedback and involve users in shaping the Office's services. Discussions in all three Customer Panels mainly focused on needs for information, guidance and assistance, the effectiveness of the Office's support services, and opportunities for improvement.

⁽²⁶⁾ For more information on the Office's continued efforts to provide excellent customer service in terms of accessibility, quality and timeliness, please refer to the Service Charter KPIs included in Appendix A - Performance Data.

⁽²⁷⁾ Please refer to the following [page](#) on the Office website for additional information on the results of USSs carried out by the Office since 2005.

Support to SMEs

The SME Programme – in close alignment with ECP6 – aims to support SMEs at different stages of their development. The programme seeks to empower SMEs to protect and enforce their competitive advantage through IPRs. SME-related initiatives were hosted under the new brand *Ideas Powered for business*. The Office expanded its *Ideas Powered for business* network through close cooperation with the EC DGs, EPO, WIPO and MS IPOs, as well as other key stakeholders that are not part of the IP ecosystem but are highly relevant to SMEs in the EU. Cooperation agreements were signed with nine organisations that are in touch with SMEs in different fields all over Europe (e.g. accounting, crowdfunding, technology and innovation) ⁽²⁸⁾.

Another SME-related initiative triggered by the economic crisis due to the COVID-19 lockdown was the creation of a common entry point via the Office website for SMEs to access free-of-charge IP legal consultation. By the end of the year, over 200 legal representatives from all EU countries had volunteered to provide free legal consultation to more than 300 SMEs.

Additionally, as a result of discussions with the EC, the Management Board authorised the Office – under the [EU Programme for the Competitiveness of SMEs \(COSME\)](#) – to implement a series of actions included in the EC IP Action Plan aimed at financially supporting those EU SMEs that wish to protect and manage their IPRs through the national, regional and EU IP system. The [SME Fund](#), with an allocated budget of EUR 20 million, will operate for 12 months and finance 75 % of the cost of IP pre-diagnostic services and 50 % of the basic application fees for EU and national trade marks and designs.

Cooperation with the Translation Centre

The CdT Transformation Programme – i.e. the cooperation between the Translation Centre for Bodies of the European Union (CdT) and the Office over the last 2 years to update and modernise the CdT's translation services – came to a successful close. This joint effort included a series of projects to integrate highly innovative language technologies and AI (e.g. neural machine translation and automatic speech recognition) for the benefit of both the CdT and its clients (EU institutions and agencies). Both agencies invested close to EUR 2 million to help the CdT put in place a new business model and become financially sustainable.

Overall, the CdT moved away from a one-size-fits-all policy to a more bespoke approach focusing on clients' needs, opening the door for new business opportunities. The Office can now benefit from the Centre's new services, the reduced price for custom translation, the enhanced quality of the newly created translation engines, as well as the reduced turnaround times. Based on the know-how gained during the implementation of the programme as well as a better knowledge of its clients, the Centre is now better placed to face future challenges.

Following a series of negotiation rounds, the Office and the CdT signed a new arrangement, covering for the first time a duration of three years (2021 – 2023). This agreement establishes a significant re-balance between fixed and variable costs for EUTM translations and represents a more beneficial situation for both parties.

⁽²⁸⁾ Please refer to the following [link](#) for an updated list of participating organisations.

SD2 – STRATEGIC PROJECTS UNDER SP2020 AND SP2025 ⁽²⁹⁾
Expected outcomes
Progress in 2020 (*)
SP2020 PROJECTS

Implementation of all relevant actions

 The following projects have been successfully closed: [Register](#), [Ex parte trade marks](#), [AG examination support](#), [RG examination support](#), [Automatic language check](#), [Back office litigation](#) and [Maximise HDB usage](#)
Administrative closure

DISSEMINATION ANALYSIS OF IP DATA

Enhanced and more user-friendly ways to access IP information tailored to the specific needs of users

 Following the creation of the eRegister, [dissemination of IP information](#) has been reviewed to rationalise dissemination channels and processes using state-of-the-art technology
 13 [strategic recommendations](#) proposed and accepted by the Office; with users and national offices [consulted](#)
 Consolidation of [end-user data services](#) into a single hub; [new dissemination channels](#) customised for end users
 Project [deliverables presented](#) to Management for [approval](#)

SP2025 PROJECTS
BOARDS OF APPEAL
BoA IP TOOL

Implementation of a robust, secure and reliable IT tool founded on the IP Tool platform

[Analysis phase](#) started

EFFECTIVE WORKING TOOLS PROGRAMME
NEW GENERATION GUIDELINES

Increased stakeholder engagement to assess products, procedures and quality criteria applied

 The [Office Guidelines](#) are now [available in 23 languages](#) with new functionalities: online comments, automatic pdf generation and an improved search feature
Administrative closure

AGILE WORKFLOW TOOLS PROGRAMME
IP TOOL EX PARTE DESIGNS

Efficiently managed procedures for RCD applications and IRCDs designating the Office within IP Tool

 Integration of [examination and registration of direct designs](#) into IP Tool, covering all first instance proceedings

 Requirements for [RCD e-filing improvements](#) delivered

CUSTOMER-CENTRIC APPROACH PROGRAMME
CUSTOMER FOCUS

Implementation of a customer-centric model based on the specific needs and expectation of Office customers

 Brainstorming sessions organised with examiners and customer care experts to receive [input on existing services and design new solutions](#) according to customer needs

 Two pilot EUTM and RCD examination teams implemented: one dealing with [first time filers](#) (mainly SMEs), and the second focusing on the Office's [Key Users](#) (large IP representatives' firms)


(*) = task completed; = task on target; = task delayed.

⁽²⁹⁾ For more information on the strategic projects under SD2, please refer to the following [page](#) on the Office website.

SD2 – STRATEGIC PROJECTS UNDER SP2020 AND SP2025 ⁽²⁹⁾

Expected outcomes

Progress in 2020 (*)

CUSTOMER SUCCESS SOLUTIONS

Provision of innovative solutions for a customer-centric model based on the specific needs and expectation of Office customers

Initial work underway on **customer segmentation**, mapping the **customer journey** of two customer segments



Ongoing work on developing a chatbot to **support customer queries**



Business development analysis for filing of **renewals** and linkage of trade marks to **company and domain names** is being considered



SME PROGRAMME

SME WEBSITE

Added value for entrepreneurs, start-ups and SMEs by facilitating access to consolidated, simplified and relevant information

Preparatory work initiated on designing and developing the **first minimum viable product**, a basic version of the new website



SME SUPPORTIVE INSTRUMENTS

Support SMEs during their various life cycles, empowering them to protect and enforce their competitive advantage through IPRs

Kick-off of **feasibility assessments** on alternative dispute resolution (**ADR**) services, a **pro bono** platform, **IP pre-diagnostics services**, **IP valuation** and an **EU IP information centre**



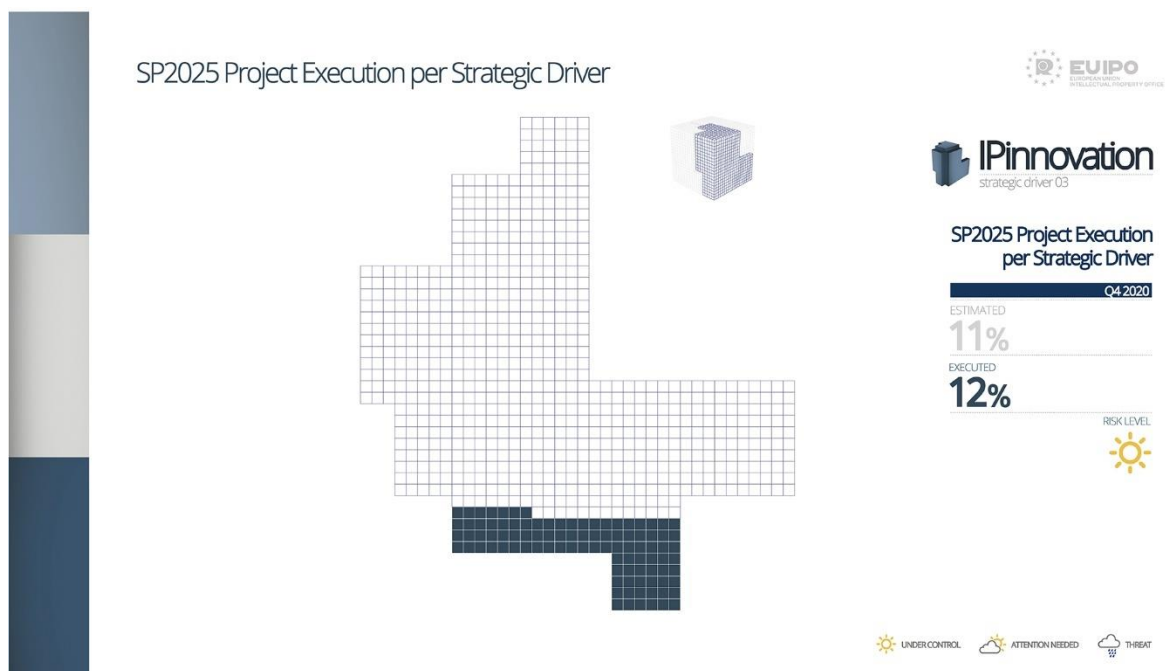
Pilot ADR and pro bono service launched in July as part of the COVID-19 response



Strategic Driver 3 IPinnovation

The third Strategic Driver, *Dynamic organisational skill sets and an innovative workplace of choice* (SD3 IPinnovation), recognises that the Office must continue to evolve in terms of skill sets and working practices to sustainably provide high-quality registration services and perform its other core tasks in a state-of-the-art work environment that leverages the best aspects of technological change and facilitates a wider contribution to the IP system as a whole.

The following chart depicts the progress and risk level of the strategic projects under SD3⁽³⁰⁾. Despite the COVID-19 crisis, SD3 has a 1 % increase in the execution rate compared with the expected execution.



Management of Human Resources⁽³¹⁾

Building on the achievements of previous years, the Office strives to maintain high levels of staff engagement, efficiency, accountability and performance through effective talent management, collaborative working and further modernisation of HR processes leading to more effective and sustainable ways of working.

During 2020 the Office continued to operate and to provide its services in a more efficient way, contributing to the Office’s sustainability. In 2020, the Office achieved 1.33 % efficiency gains, which is below the 3.0 % stated in the annual work programme⁽³²⁾. This is due to the fact that, during 2020 the Office faced significant challenges, not in the least the impact of COVID-19, which affected not only the envisaged materialisation of benefits but also required additional effort to ensure business continuity. In addition, in 2020 the Office devoted a significant amount of resources to prepare and then launch the new strategic cycle, with a

⁽³⁰⁾ For detailed information on the strategic projects under SD3 please refer to the table at the end of this section.
⁽³¹⁾ For additional information on the Office’s management of human resources, please refer to the latest edition of the Human Resources Annual Report that is publicly available via the following [link](#).
⁽³²⁾ The Office’s [Work Programme 2020](#): Appendix 4 – Annual Staff Policy Plan (pages 1 and 4)

particular focus on SME-related initiatives.

As a result of the COVID-19 outbreak, a series of measures were taken to secure staff safety and business continuity. In response to the exceptional circumstances, the teleworking rules were relaxed and a number of procedures were adapted to tackle the situation and the Office's evolving needs⁽³³⁾. The exceptional scheme aimed to increase the flexibility and scope of the occasional and structural teleworking options. It proved invaluable during the COVID-19 lockdown and for the staff's subsequent return to headquarters. Some 250 people on average per day made use of the occasional teleworking option, while close to 200 enjoyed either structural teleworking or 100 % exceptional teleworking as part of a COVID-19 vulnerable group. The encouraging outcome of the new teleworking decision had a positive impact on work satisfaction and staff engagement, particularly regarding the occasional teleworking scheme that was extended to all staff members and SNEs without the need to sign an agreement or other formalities. Moreover, the days of occasional teleworking per year were increased to 80 (via a Communication from the Executive Director) to enhance flexibility and ensure a better work-life balance based on lessons learned from the pandemic.

In terms of staffing, the Office strives to achieve the highest implementation rate of its annual staff policy plan through the use of existing reserve lists and the creation of new ones. In 2020, the Office launched 10 external selection procedures, including one for IP specialists, in anticipation of the increased workload and the rising number of staff members reaching retirement age. It is also worth noting that the EUIPO recruitment and onboarding process has moved fully online, which allowed to continue with recruitment efforts throughout the pandemic without interruptions.

In cooperation with the European Personnel Selection Office, the Office ran two internal competitions for administrators and assistants in support (non-IP) activities that had been launched at the end of 2019. Due to the COVID-19 crisis, the Office not only adapted its test planning but also helped organise training sessions to support candidates to prepare for the relevant tests.

Opportunities for internal mobility and changes of function group for contract agents were made available through the new Implementing Rules. The first exercise resulted in 44 staff members being offered a new contract in a higher function group. Additionally, a group of 13 contract agents were converted to temporary agents, improving their contract situation in line with the current Office staff policy.

At the beginning of the year, the Office launched its biennial feedback exercise, encompassing the staff satisfaction survey, peer feedback for non-managerial staff and 360° feedback for managers. The participation rate was in line with the 2018 exercise at 73 % and results show that staff engagement remains stable at 79 %. Following up on the results, action plans were developed at Office and departmental levels, focusing on the 'supportive culture' and 'senior management' areas. In this context, the first targeted Staff Satisfaction Pulse survey was launched in July to allow staff to provide ongoing feedback and enable the Office to promptly measure progress. Early results showed encouraging improvements by an average of three percentage points, a notable margin considering the short period covered. Other significant improvements were reported in the areas of contact between senior management and staff, and greater confidence in staff members' ability to communicate openly and honestly with management⁽³⁴⁾. By the end of the year the Office

⁽³³⁾ As provided for in the Staff Regulations (i.e. part-time work, parental or family leave and leave on personal grounds — a flexitime scheme allowing staff to organise their working time).

⁽³⁴⁾ Reference relevant for GRI Disclosure 102-43 (additional data also included in the 2020 [GRI Content Index](#)).

had completed 80 % of its corporate action plan, showcasing its commitment to continuous improvement.

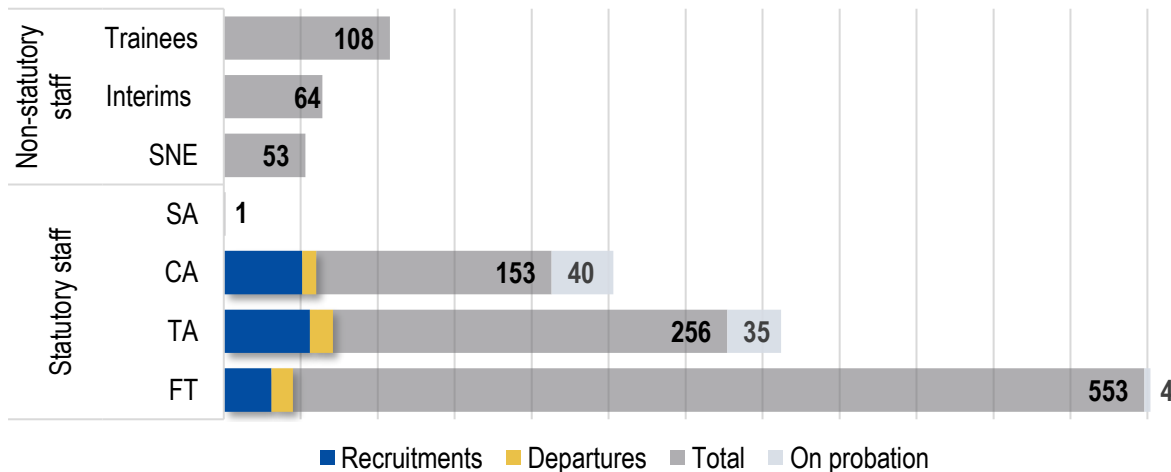
A succession planning model is being designed to guarantee that the staff capabilities needed to implement the Office’s business strategy are in place to respond to future challenges. Key positions, profiles and competencies are being identified for the 2021-2025 period, including required and desired knowledge, experience and learning. The Office is creating talent pools – with accompanying development plans – to secure knowledge continuity and growth. Professional and systematic career counselling services are provided to staff members to guide them through the different career paths.

The Office carried on modernising and simplifying its HR processes through the use of IT tools and continued implementing the remaining modules of its Enterprise Resources Planning (ERP) system. The Office conducted the 2019 appraisal exercise using the new IT system for the first time.

Depending on their functions and expertise, the Office statutory staff work under different types of contracts, based on the [Staff Regulations \(SR\) and the Conditions of Employment of other Servants of the European Communities \(CEOS\)](#) ⁽³⁵⁾.

By the end of 2020, the Office’s workforce was made up of 1 042 statutory staff members, comprising officials (FT), temporary agents (TA), contract agents (CA) and special advisers (SA); plus, Seconded National Experts (SNEs) from National IPOs, trainees and interims (agency staff) ⁽³⁶⁾.

Staff composition by category, recruitments & departures (2020)



Over the last few years, recruitment has grown steadily to cope with additional tasks and increasing workload. In 2020, 148 appointments (including newcomers, improved contracts

⁽³⁵⁾ Reference relevant for GRI Disclosure 102-41 (additional data also included in the 2020 [GRI Content Index](#)).

⁽³⁶⁾ For additional information on the different types of contracts and remuneration conditions at the Office, please refer to the following [page](#) on the Office website.

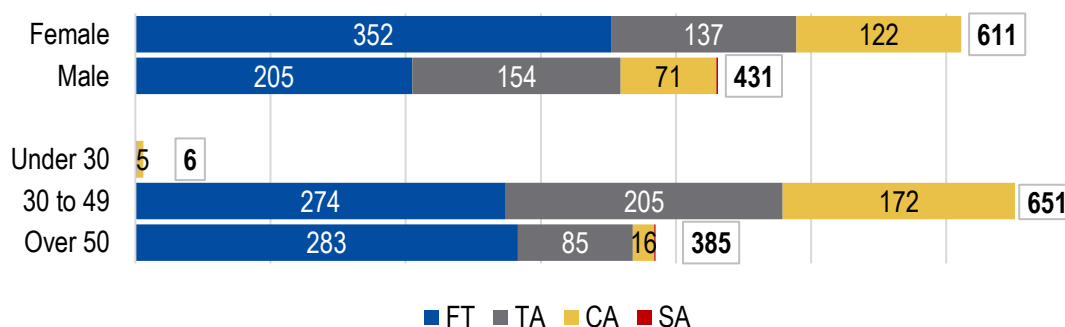
and mobility of existing staff) and 58 departures were recorded.

Total appointments (entry dates in 2020)	Distribution of appointments			Departures	
	Newcomers	Improved contracts for existing staff	Internal mobility		
FT	31	5	10	16	14
TA	56	25	15	16	15
CA	51	19	25	7	9
SNE	10	10	-	-	20
Total	148	59	50	39	58

Out of all the Office staff, 58.6 % are women. In 2020, 44 % of managerial positions⁽³⁷⁾ were occupied by women. This surpassed the 40 % target set in SP2020 and was 11 percentage points above the total reported at the beginning of that strategic plan (31 %). This achievement represents an important change in corporate culture that embraces gender balance, diversity, fair treatment and a commitment to having women at the helm.

Similarly, following the trend of previous years, the age distribution of statutory staff (excluding SAs) mostly concentrated on the 30 to 49-year-old age group (62.5 %), followed by staff above 50 (36.9 %) and under 30 (0.6 %).

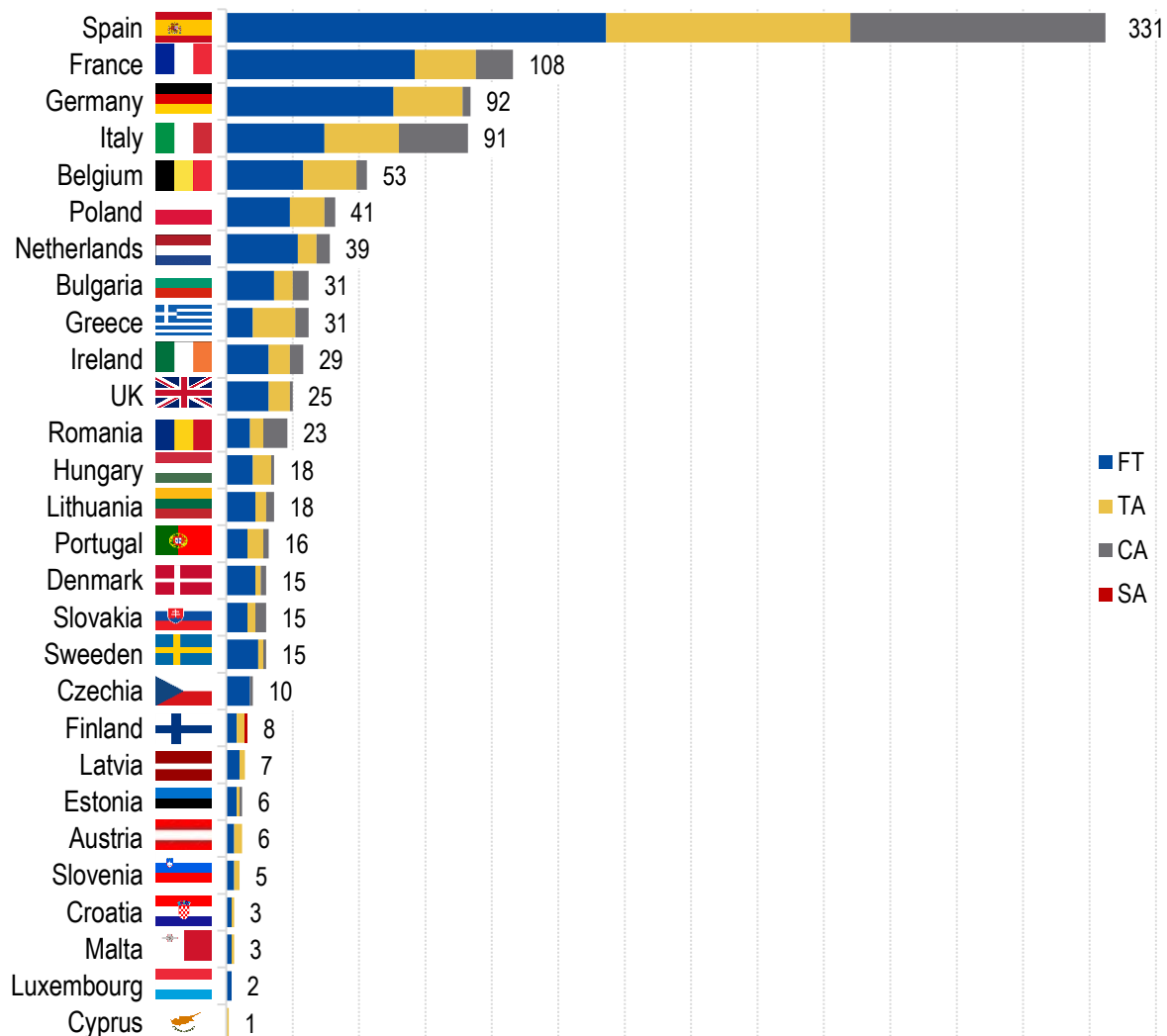
Statutory staff by category, gender & age group (2020)



⁽³⁷⁾ Managerial positions (directors, deputy directors and heads of services) at the Office do not include staff appointed by the Council and by the Administrative Board.

The graph below shows all 28 pre-Brexit MS represented by staff origin⁽³⁸⁾. Compared with 2019, the nationalities showing the greatest percentage increases were: Latvia, the Czech Republic, Italy, Ireland, Sweden, Greece and Spain. Meanwhile, the following nationalities showed a decrease in numbers: the United Kingdom, Croatia, Denmark and Hungary.

Statutory staff by nationality and category (2020)



Academy Activities

The Office's continued investment in staff development focuses on providing digital learning content through the Office [Academy Learning Portal](#) (ALP), as well as through a catalogue of classroom and blended training activities. Due to the exceptional working conditions imposed by the COVID-19 crisis, the Academy converted face-to-face courses to online formats to ensure continuity in the delivery of the 2020 Staff Training Plan. Internal knowledge content was increased with the purchase of several new databases and online material, covering areas such as business, human resources, applied science and technology. The internal Knowledge Hub registered 7 152 visits; a 42.5 % increase compared with 2019.

⁽³⁸⁾ In accordance with the Staff Regulations, the Office does not recruit staff based on nationality, nor does it apply quotas. However, the Treaties seek to establish a certain geographical balance of its workforce.

By the end of 2020, the ALP offered 952 courses (473 with certificates) to approximately 23 200 registered users. Meanwhile, the [Tuesday Webinars](#) (streamed throughout the year) reported a 6.7 % increase in the total number of viewers (i.e. 9 719 viewers) and a 1.3 % increase in global satisfaction rate.

The Office pursued further partnerships in the academic community, particularly on new technologies, building upon the benefits of the cooperation established through the years with several academic partners, as well as its extended cooperation with IPOs and other regional stakeholders (such as EU institutions and agencies) and international organisations (such as the EPO). Additionally, the Office reinforced the [Pan-European Seal](#) (PES) traineeship programme by acting as a reference pool for both traineeship and job offers for former trainees through the [PES Talent Bank](#) and the creation of PES alumni reinforced membership, under the scope of the creation of a network of IP academies. Close to 100 trainees joined the Office in September for the 2020-2021 period in the course of its first-ever online onboarding programme.

Within the framework of the MoU signed with the University of Alicante's Magister Lvcentinvs, the Office donated 1 742 declassified books.

In compliance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, there were 16 requests for documents to the Public Register and 1 confirmatory request in 2020. All requests were properly completed within the established time limits. By the end of 2020, the Public Register had listed 3 812 documents.

Financial Management

The Office's financial management system promotes the effective and transparent allocation and use of its financial resources as the groundwork for the Office to achieve its objectives⁽³⁹⁾.

Throughout 2020, the Office closely monitored the economic impact and possible consequences on the budget of the COVID-19 pandemic in order to take any necessary actions. In this challenging context, the Office continued to deliver its services with no interruptions. After an initial decrease in income at the start of the pandemic, filings sharply increased leading to a higher level of revenue than budgeted. Since the Office swiftly adapted to the new context, the execution rate in terms of expenditure was, this year again, above its 95 % objective. In view of these excellent results, no amending budget was needed.

In connection with the business continuity plan, under the exceptional circumstances and limitations resulting from the measures taken in relation to the COVID-19 pandemic, the Office adapted its financial workflows to minimise disruption to daily operations while ensuring full compliance with relevant regulatory requirements and sound financial management.

The Office continued to review and streamline, where possible, its budgetary planning, procurement and vendor management, fees collection and accounting activities, in the interest of seeking further efficiency in its financial processes. These processes were further complemented by digitalisation and automation initiatives. For example, the full use in 2020 of the automated reimbursement back office, introduced in 2019, improved efficiency and

⁽³⁹⁾ For more information on the Office's Annual Accounts and Budget, please refer to the publicly available information on the following [page](#) of the Office website; and additional relevant data included in Appendix B - Management of Resources and Assurance.

business continuity.

Furthermore, the adoption of the Office's Financial Regulation made it necessary to register the costs incurred by the Office to support EU policies under contribution agreements with the EC under Title 4 of the budget, starting with the financial year 2020. This ensures the Office's contribution to these policies through its accumulated surplus, as recommended by the European Court of Auditors, and also increases the Office's capacity to implement EU-funded projects from a financial perspective.

In an effort to continually improve and capitalise on its financial knowledge, the Office reviewed and updated its internal training offer on finance matters in line with the latest changes in the financial framework. Moreover, the internal guidance documents for financial actors were updated in accordance with the Office's Financial Regulation.

General IT Services

The Office maintained and monitored a robust and secure infrastructure that successfully enabled staff members and external providers to work remotely throughout the entire COVID-19 health crisis. Around 1 400 users were able to connect on a daily basis. This showed that the initiatives to implement a modern mobile workplace in recent years, including creating a secure virtual private network and enforcing security checks and procedures, among others, were necessary and have performed as expected. Staff members were able to perform their duties from day one, including preparing and successfully delivering the first and second online Management Board and Budget Committee (MB/BC) meetings in June and November 2020, with new technologies ensuring fluid and secure deliberations and decision taking.

As part of the 'Robust Backbone' programme, the Office deployed an all-flash (NVMe) disk drive and Datacentre Application Centric Infrastructure dynamic technology to support the Office's digital transformation, to enhance its tools' performance and to make them ready for a hybrid cloud model. In addition to reducing its environmental impact as energy requirements for storage will eventually be reduced, the Office is one of the first organisations in Europe to deploy this type of equipment.

In 2020, the Office's website availability reported a continued high rate of 99.32 % with an increased usage by an average of 530 000 visits per week. User satisfaction with the Office's website remained stable based on the latest USS results (82 %). Similar user feedback was reported for the EUIPN's flagship tools (TMview – 84 %; DesignView – 76 %; TMclass – 82 %; and DesignClass – 74 %). These also underwent further improvements (for instance, with the release of new versions of TMview and DesignView) as a result of increased user involvement through the ECP working groups.

As regards cloud computing, the Office built on the foundations laid down by the cloud initiatives implemented under the SP2020 to adapt to new opportunities emerging in this very dynamic market and new challenges on security and data privacy.

In terms of digital security, the Office's quest for high standards is exemplified in the Observatory tools' attainment of the SOC 2 certification and its continued investment in reinforcing related competencies and capacity. In close cooperation with other partners as part of the Information Security Network for IP Offices – comprising National IPOs, European agencies and the Computer Emergency Response Team for the EU Institutions, bodies and agencies (CERT-EU) – the Office focused on developing knowledge and skills in the field of cyber-security.

In parallel, the Office is updating its onsite computer centre facilities and procedures to enlarge its catalogue of services provided to other partners, in line with the request from the EC, European Parliament and Council to increase efficiency and accountability in European agencies by fostering synergies and strengthening cooperation in areas of common interest⁽⁴⁰⁾. In doing so, the Office leads one of the use cases for image searches in an AI virtual community including EU agencies and MS.

In addition to the go-live of the new versions of TMview and DesignView, and the go-live of the new GView, other areas of cooperation included content maintenance and alignment of harmonised databases (in collaboration with WIPO) and providing support for the extensions of tools in 16 non-EU countries.

The continued maintenance of the Office's IT applications has resulted in more than 1 765 corrective, adaptive and infrastructure interventions in production environments, including a new e-communication form put in place to replace the use of faxes, WIPO DAS integration for RCDs and modifying the systems to handle the time-limit changes. Other changes included adjustments due to Brexit-related issues, adapting systems to different user segments (first time filers and large IP firms), preparing IPEP for the implementation of the new Commission Implementing Regulation (EU) 2020/1209 of 13 August 2020 amending Implementing Regulation (EU) No 1352/2013⁽⁴¹⁾, developing front and back office solutions to support the new SME Fund and SME website, and aligning payment systems with the new EU directive on payments.

Infrastructure and Logistics Management

The Office seeks to maintain a high-quality and sustainable physical environment by allocating investments to maximise the efficiency of its facilities, minimise the environmental impact of its operations, and provide staff with improved working conditions⁽⁴²⁾.

In this context, the modification of the Agua Amarga district urban plan (intended to enable the acquisition of the street located between the current Office campus and the vacant adjacent lot acquired in 2019) is being processed by various local, regional and state bodies for approval following its submission to the City Council of Alicante.

The Office also delivered, to the Provincial Council of Alicante, a detailed technical project to improve the access road connecting the Office headquarters with a nearby inland main avenue. The aim of the project is to significantly reduce the coast line traffic flow and provide better access to the Office's surrounding urban environment, increasing safety for both pedestrians and vehicles.

In its drive towards becoming a fully sustainable organisation, the Office increased its focus on reducing its environmental impact, particularly in the areas of production of waste, consumption of resources and greenhouse gas emissions. New recycling points were installed in all three buildings of the Office campus; heating-related fossil fuel consumption was reduced to zero for the Office's day to day needs; and the entire thermal energy supply of the heating system is

⁽⁴⁰⁾ Such as completing the modernisation programme jointly developed with the CdT, sharing the EUIPO Data Centre to provide disaster recovery hosting capacity for EU Agencies – such as EFCA and ECDC – or providing IT consultancy through Office staff to the CPVO and the BERE Office.

⁽⁴¹⁾ Commission Implementing Regulation (EU) 2020/1209 of 13 August 2020 amending Implementing Regulation (EU) No 1352/2013 https://eur-lex.europa.eu/eli/reg_impl/2020/1209/oj

⁽⁴²⁾ For more information on the Office's environmental impact, please refer to the latest edition of the EUIPO Environmental Statement available via the following [link](#).

now provided by geothermal power thanks to recent infrastructure upgrades. Additionally, after offsetting its CO₂ emissions for 2016, 2017 and 2019, the Office is now a carbon neutral organisation. In September, the Office was distinguished with one of the 2020 Green Apple Awards granted by The Green Organisation⁽⁴³⁾, in recognition of its efforts to reduce its environmental impact within the context of the SP2020.

As a continuation of the work carried out in previous years, the Office invested in maintaining its excellence level for support services in the area of hospitality, general logistics and security/safety to offer the best possible experience to its users, visitors and staff. An internal satisfaction survey carried out in 2020 revealed an 81 % overall satisfaction rate with these services.

Following the activation of the 'state of alarm' by the Spanish government and the Office's decision to relax the teleworking rules as a result of the COVID-19 outbreak, particular attention was paid to efforts to facilitate the best possible ergonomic conditions at home for staff and reinforce the maintenance and operation of technical facilities critical for supporting the Office's information systems, during a period of massive teleworking, while also allowing for a quick return to normal operation at the earliest opportunity.

After the end of the 'state of alarm', the Office drew up a two-phase return plan for Office staff members and external contractors. The experience of the 100 volunteers that participated in the first phase was used to underpin the preparation for the second phase, which consisted of, among other things, installing abundant hydroalcoholic gel dispensers and hands-free elements such as automatic taps or wastebaskets with pedal operated lids; separating work stations to ensure adequate social distancing; and signposting elevators, restrooms and common areas. The Office delivered 62 550 face masks per month to its staff members.

Additional cleaning and disinfection schedules were redefined; the capacity of conference rooms, meeting rooms and commercial and collective catering spaces were reduced, opening hours were extended and shifts were established to avoid crowding.

There were two external audits on cleaning and disinfection procedures and on minimising the possible risk of contagion on campus. As a result, the Office was among the first organisations in Spain to be granted an external certification for the measures adopted.

Communication Activities

The highlight of the Office's 2020 communication efforts focused on the launch of the SP2025, including the go-live of a new section and three new hubs on its website connected to the SDs: [IPnetwork](#) (SD1), [IPexcellence](#) (SD2) and [IPinnovation](#) (SD3). A package of actions to support SMEs also kicked off under the new brand [Ideas Powered for Business](#); by the end of 2020, the website had received more than 45 000 visits.

The year began with a visit by the Executive Director to the Zarzuela Palace in Madrid to meet with King Felipe VI and members of his cabinet. The King highlighted the importance of IP and praised the Office for its exponential growth over the years.

Evidently, communication planning was strongly impacted by the COVID-19 pandemic. From the start of the lockdown, communication focused on increasing transparency and developing

⁽⁴³⁾ [The Green Organisation](#) was established in 1994 as 'an international, independent, non-profit, non-political, non-activist environment group, dedicated to recognising, rewarding and promoting environmental best practice around the world.'

a flow of information with all staff, on the one hand, through weekly updates from the Executive Director and other systematic communication initiatives, including a weekly video edition of the EUIPOnews and the creation of a #StayHome community hub to support staff through these difficult times. On the other hand, information was guaranteed for all external stakeholders, focusing on the steps taken by the Office in response to the pandemic through the [COVID website 'hub'](#), news, social media and media relations actions, including regular video messages from the Executive Director addressed to the Office's key stakeholders.

After the encouraging closure of the call for entries despite the COVID-19 crisis, and following the success of the first two editions of the [DesignEuropa Awards](#) (Milan 2016 and Warsaw 2018), the third edition of the awards ceremony is scheduled to be held in Eindhoven, Netherlands in October 2021.

Following the success of the first edition of [IPDENTICAL](#) – selected for more than 35 international film festivals – the Office received the 'Reconocimiento Especial' award for its contribution to promoting innovation and creativity, during the presentation of its second short film called IPdentity at the award ceremony of the 17th Film Festival of Alicante in October 2020. Moreover, during 2020 viewing of the IPDENTICAL short film increased significantly, exceeding 150 000 views on the EUIPO YouTube channel.

In terms of media outreach, work intensified with specialised and general media alike. Interviews were coordinated with top management appearing in top-tier IP news outlets as well as national television news programmes and key broadsheet newspapers across the EU. The launch of the [Status Report on IP Infringement](#) was a particular success, generating a record return (advertising value equivalent reached EUR 8.3 million) and resulting in more than 1 030 articles appearing in the press both in the EU and beyond.

Corporate Governance

The achievements, performance and benefits of SP2020 were analysed and presented to the Office's main stakeholders as a result of its continued endeavour to provide its governing bodies, the MB/BC, and other key stakeholders with the most updated and complete information on Office activities and the implementation of its strategic plans.

Organisational efficiency and effectiveness were further pursued through simplifying Office processes, indicators and risk management to establish a results-oriented culture for achieving the SP2025 objectives and goals. To this end, the Office's continued optimisation of its governance strategy and implementation framework was reinforced as a result of its ability to analyse forecasting scenarios and probabilities, while involving relevant stakeholders and, in particular, MS IPOs. These actions were further strengthened through aligning its internal control activities⁽⁴⁴⁾, its integrated corporate reporting and management systems certification cycle.

In March, the Office successfully passed the external audit of its six certified management systems. The procedure concluded with the renewal of the Office's environmental certification (EMAS) and the confirmation that the Office's processes remain in full alignment with international standards in the field of quality (ISO 9001), information security (ISO 27001), complaints management (ISO 10002), occupational health and safety (OHSAS 18001), and universal accessibility (UNE 170001).

⁽⁴⁴⁾ Internal control activities are supported by a network of internal control correspondents (ICCs) set up to help management implement and oversee the internal control system.

The Data Protection Officer (DPO) was involved in fulfilling the internal audits for the Office's management systems as planned in the Office Audit Plan, so as to further integrate and align personal data management guidelines and procedures.

The external auditors drew particular attention to the Office's continuous development in the field of information security and new technologies, its outstanding environmental performance and the effectiveness of its health and safety and accessibility measures considering its extraordinarily low accident rate. They also extolled the public consultation process that was launched to develop the SP2025, highlighting in particular the Office's customer-focused approach⁽⁴⁵⁾.

In the interest of further underpinning its customer-focused approach, the Office also developed a more user-friendly interface for the Office Service Charter⁽⁴⁶⁾; focusing on simplification, increased clarity and efficiency while enabling easy access to information and knowledge.

On account of the new strategic plan, the Office's contribution to the achievement of the EC's priorities for 2019-2024 is mainly aligned with 5 out of the 6 priorities defined by the EC: mainly, *promoting our European way of life, a European Green Deal, a Europe fit for the digital era, an economy that works for people, and a strong Europe in the world*⁽⁴⁷⁾.

Furthermore, since 2018 the Office has extended its corporate reporting to disclose its contributions to the [UN Sustainable Development Goals](#) (SDGs)⁽⁴⁸⁾ in the interest of increasing its accountability towards sustainable best practices. Currently, in line with the Commission's abovementioned priorities and the EU and its Member States commitment to implementing the 2030 Agenda, the Office's SDG contribution essentially focuses on:

- ensuring equal access to quality training and promoting gender equality;
- implementing sustainable and integrated resource management systems;
- supporting economic growth;
- protecting innovation and creativity;
- adopting sustainable public procurement practices;
- committing to increased accountability and transparency as a public agency;
- building on existing initiatives to develop measurements of progress on sustainable development⁽⁴⁹⁾.

⁽⁴⁵⁾ For additional information on the consultation process for the new strategic plan please refer to the Strategic Plan 2025 Consultation Report publicly available via the following [link](#).

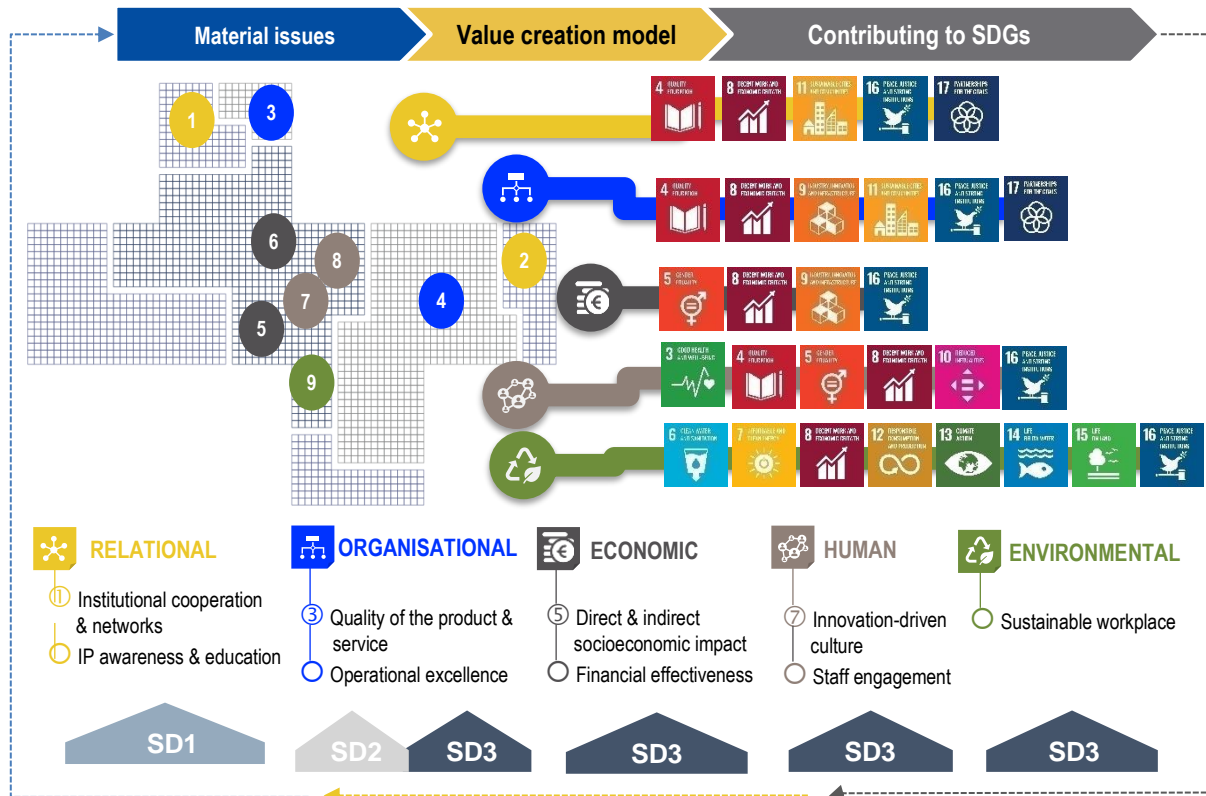
⁽⁴⁶⁾ The [Service Charter](#) is a commitment established in the Office's [Work Programme](#). It measures the Office's performance against three standards: timeliness, accessibility and quality of decisions. The Office publishes its performance results on a quarterly basis and revises its standards annually to reflect users' feedback.

⁽⁴⁷⁾ For more information on the EC's priorities please refer to the following [website](#).

⁽⁴⁸⁾ For more detailed information on the SDGs please refer to the [UN SDGs website](#).

⁽⁴⁹⁾ Reference relevant for GRI Disclosure 102-47 (additional data also included in the 2020 [GRI Content Index](#)).

To consolidate its integrated thinking approach – grounded on a pool of financial and non-financial capitals (organisational, human, relational, economic and environmental) – the Office updated its internal corporate sustainability framework to adapt it to the needs and expectations highlighted in the public consultation process of the SP2025 ⁽⁵⁰⁾.



Data Protection

The DPO's efforts during 2020 mainly focused on ensuring that business continuity solutions (due to the COVID-19 crisis) were implemented in compliance with Regulation (EU) 2018/1725⁽⁵¹⁾, in particular for online collaboration tools and the return plan.

In 2020, the Court of Justice of the European Union issued a landmark decision invalidating the EU-US Privacy Shield, the main legal instrument used for transferring personal data to the United States. All transfers of personal data outside the EU were reviewed and assessed by the Office under the guidance of the Knowledge Circle on Data Protection and involving the participation of all departments to ensure that the matter was tackled across the office.

Moreover, the year saw the outcome of the European Data Protection Supervisor's investigation on Microsoft Cloud services, establishing a series of recommendations to ensure that Microsoft services manage personal data appropriately.

⁽⁵⁰⁾ Reference relevant for GRI Disclosures 102-46 (additional data also included in the 2020 [GRI Content Index](#)). The materiality assessment performed as a result of this public consultation process – with more than 3 800 proposals received through more than 90 contributions – identified the material issues on which the Office's value creation model is founded in alignment with the new SDs.

⁽⁵¹⁾ [Regulation \(EU\) 2018/1725](#) of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

During the year, the number of consultations sent to the DPO rose exponentially, registering a 43 % increase with respect to 2019. At the same time, the DPO actively participated in interinstitutional working groups on establishing data protection requirements during procurement processes and on the practical implementation of data protection requirements in IT systems. The DPO further led the creation of the Iberia Working Group with DPOs of EU agencies in Portugal and Spain, while continuing to support the CPVO in data protection and privacy matters.

Internal Audit

The mission of Internal Audit (IA) is to enhance and protect the organisation's value by providing risk-based objective assurance, advice and insight. In this context, IA issued the final report for four engagements from the 2019 and 2020 audit plans⁽⁵²⁾, carried out a COVID-19 lessons learned study and followed up on eight engagements for audit plans of previous years.

Audit reports included recommendations aiming to improve the audited processes, concerning matters such as scope and governance, control and monitoring procedures, sound financial management, documentation and IT support. Subsequently, the audited departments prepared action plans, which will be followed up by IA in 2021.

In relation to implemented action plans followed up in 2020, the overall compliance level reached 87 % (above the target and excellence levels set for the year, 75 % and 80 % respectively).

IA carries out its function within the framework defined by the applicable provisions, following relevant international standards, and is constantly looking for possible measures to increase the efficiency and the effectiveness of its work.

Additionally, IA oversees the functioning of the Office's [anti-fraud strategy](#), which was updated and renewed in 2020. It also provides internal audit services to the CPVO.

Non-IP Legal Advice and Litigation

High-quality legal advice in the procurement, finance and institutional areas, as well as on statutory matters and on a wide range of horizontal legal issues, is key to the correct functioning of the Office. The Statutory Matters Team is responsible for defending the Office before the European and national courts and providing legal advice on interpreting the Staff Regulations.

The legal consequences of the disruptions created by the COVID-19 outbreak and the subsequent lockdown measures in many areas were assessed in a wide range of issues. From the analysis of compliance with the Spanish laws on the health and safety measures adopted to ensure the health of staff and third parties in the Office during the period of the outbreak, to the contractual obligations and responsibilities of service providers during this period.

⁽⁵²⁾ Audit plans are based on a 'risk and request' analysis that takes into account the Corporate Risk Register, the organisational audit universe, internal requests and the internal auditor's professional judgement.

SD3 – STRATEGIC PROJECTS UNDER SP2020 AND SP2025 ⁽⁵³⁾

Expected outcomes

Progress in 2020 (*)

SP2020 PROJECTS

INCREASE IT SECURITY

Improved access control and data integrity on endpoints

Improvement in the following areas: **firewall identity awareness, privilege access management, VPN improvement, data leak prevention, data centre security and data anonymisation**
Administrative closure



EUIPO TRADE MARK AND DESIGN EDUCATION PROGRAMME (ETMD EP)

Enhanced quality of the services provided to EU businesses by IP professionals on trade marks and designs

Second edition of the **ETMD EP** completed with the participation of **70 IP professionals from 26 EEA countries** with an overall **satisfaction rate of 90.6 %**
Third edition launched welcoming **58 participants from 23 EEA countries**
Project successfully closed



SP2025 PROJECTS

ARTIFICIAL INTELLIGENCE AND JOB MAPPING EVOLUTION

Higher efficiency in daily operations and more appealing tasks and job profiles for staff

A **dedicated cross-departmental taskforce** was put in place to help define the **AI change strategy and vision** among other project deliverables



DEVELOPMENT OF EUIPO CAMPUS

Continual upgrading of the Office's physical infrastructure

Prepared a detailed **technical project** of the works for the **expansion and unification of the campus** and the **application** for the municipal building permit, as well as the **specifications** for subsequent call for tenders



DIGITAL EVOLUTION PROGRAMME

BLOCKCHAIN IP REGISTER

Improved speed, maintain high-quality data transfers and provide new services for IPOs and customers

First **two pilot IPOs** identified to integrate **TMview and DesignView with blockchain**: Estonian and Maltese Offices



DATA GOVERNANCE AND LITERACY

An office-wide data governance framework with rules and procedures on the use of corporate and operational data

Progress on the creation of the **data governance network**, drafting a **common business dictionary of concepts** and selection of a product to create the **data repository**



ARTIFICIAL INTELLIGENCE IMPLEMENTATION

Centralised Office AI-based solutions built under one single initiative

Chatbot and Smart search solution developed for SME website



Implementation of first version of **AI-based Vienna Codes** suggestion service to be used internally by search report team



Implementation of **AI-based G&S search for EasyFiling**



(*)  = task completed;  = task on target;  = task delayed.

⁽⁵³⁾ For more information on the strategic projects under SD3, please refer to the following [page](#) on the Office website.

SD3 – STRATEGIC PROJECTS UNDER SP2020 AND SP2025 ⁽⁵³⁾

Expected outcomes

Progress in 2020 (*)

ENTERPRISE RESOURCES PLANNING

More integrated core for HR processes, completely interoperable with finance information systems and targeted employee self-service solutions

Release of several components of the 'employee self-service' module



ROBUST DIGITAL BACKBONE PROGRAMME

MODERNISED EUIPO ONLINE PLATFORM

Creation of a modern cloud-based online platform to provide a wide integrated range of services

Development of an easy and safe e-filing tool for SMEs to proactively provide a quick and effective answer to SMEs' pressing needs



Office storage capacity increased to 1.4 petabytes and data centre network speed multiplied by 10



MODERNISED EUIPO APPLICATION LANDSCAPE

Further modernisation of the Office's digital infrastructure

Technical refactoring to a hybrid cloud native solution including PER, a master database for owners and representatives



About this Report

This report complies with the requirements set out in Article 157(4)(g) EUTMR (preparing the annual report on the Office's activities and presenting it to the Management Board for approval) and in Article 48 of the Office's [Financial Regulation](#) (*Consolidated annual activity report*).

It outlines the activities undertaken by the Office in 2020 within the framework of the closure of SP2020 and the beginning of SP2025. The designated SKIs are linked to the strategic drivers and targets set out for the year, providing an overview of the Office's achievements and implementation of projects.

This report has been prepared in accordance with the GRI Standards: Core option. Although there is no official sector supplement available for public agencies, the Office has also used the Sector Supplement for Public Agencies (Pilot Version 1.0) as a reference for aspects that are considered material to public organisations⁽⁵⁴⁾.

In line with previous years, information on common elements with the UN SDGs and the [European Directive on non-financial and diversity](#) have also been included in the 2020 [GRI Content Index](#)⁽⁵⁵⁾; based on comparative research and further analysis of the Linkage Documents category in the [Resource Center](#) on the GRI website⁽⁵⁶⁾.

Measures, activities and key figures refer to the 2020 financial year (1 January to 31 December 2020). If, for some reason, the latest available data does not correspond to 2020 it is so indicated.

The metrics and goals in this integrated report are developed in conjunction with the Office's stakeholder engagement process, with key input from several cross-departmental Office experts. The information is assessed through an internal process to ensure it provides an accurate, meaningful and balanced representation of the Office's financial and non-financial performance.

In accordance with organisational procedures, and to avoid repeating information required for certain disclosures that is publicly available in other corporate documents, links have been provided to the most recent versions of those documents. When applicable, a specific citation has also been added in the GRI Content Index indicating where the referenced material is publicly available and readily accessible⁽⁵⁷⁾.

For more information, or to provide comments and suggestions on this 2020 Consolidated Annual Activity Report please contact the Office (CGS@euipo.europa.eu).

⁽⁵⁴⁾ Reference relevant for GRI Disclosures 102-46 & 102-49 (additional data also included in the 2020 [GRI Content Index](#)).

⁽⁵⁵⁾ Elements not reported under certain aspects in the GRI Content Index have been omitted mostly due to the following reasons: not relevant to operations because there are no protected or high biodiversity value areas near the Office; the Office operations and suppliers pose no risk for incidents of child labour, forced labour or rights of indigenous people; the Office does not operate in a region where human rights are a major concern; and/or the Office as a public agency cannot contribute to political causes.

⁽⁵⁶⁾ Reference relevant for GRI Disclosure 102-48 (additional data also included in the 2020 [GRI Content Index](#)).

⁽⁵⁷⁾ Reference relevant for GRI Disclosure 102-48 (additional data also included in the 2020 [GRI Content Index](#)).

APPENDICES

APPENDIX A – Performance data

Volumes

EUTMs	2018	2019	2020
FILINGS (DIRECT + IR)			
All filings	152 494	160 377	176 987
Total classes filed	390 856	411 026	438 513
DIRECT FILINGS			
Direct filings	127 323	131 815	149 665
% via e-filing	99.75	99.83	99.90
% filed as Fast Track	38.32	40.69	47.66
% published as Fast Track	29.65	30.86	37.29
No of EUTMs filed with 1 class	47 953	50 215	58 470
No of EUTMs filed with 2 classes	30 234	31 403	37 276
No of EUTMs filed with 3 or more classes	49 136	50 197	53 919
Average No of classes per EUTM filing	2.59	2.58	2.49
Total No of classes filed	329 529	339 893	373 083
IR FILINGS			
IR filings	25 171	28 562	27 322
No of IRs filed with 1 class	11 237	12 602	12 343
No of IRs filed with 2 classes	4 980	5 675	5 686
No of IRs filed with 3 or more classes	8 954	10 285	9 293
Average No of classes per IR filing	2.44	2.49	2.40
Total No of classes filed	61 327	71 133	65 430
PROCESSED (DIRECT + IR)			
Examined*	144 060	159 607	166 454
Published*	139 092	153 526	160 598
Registered*	133 344	140 762	153 470
RENEWALS (DIRECT + IR)*			
All renewals	49 949	51 927	57 679
1 st renewals	40 071	40 114	43 958
% of 1 st renewals	52.66	50.98	49.06
2 nd renewals	9 878	11 813	13 721
% of 2 nd renewals	64.74	65.44	63.00
% via e-renewals	99.75	99.85	99.86
OPPOSITIONS (DIRECT + IR)			
All filings	18 352	18 684	18 881
% oppositions via e-filing	95.97	98.00	98.53
No of decisions*	6 721	6 966	6 389
CANCELLATIONS (DIRECT + IR)			
All filings	2 113	2 095	2 048
No of decisions*	1 180	1 459	1 216
RECORDALS (DIRECT + IR)			
All recordals	68 200	74 995	82 736

INTERNATIONAL APPLICATIONS			
All filings	9 407	9 791	9 909
RCDs	2018	2019	2020
FILINGS (DIRECT + IR)			
All filings	107 618	111 598	115 815
DIRECT FILINGS			
Direct filings	93 297	96 851	99 706
% via e-filing	97.81	97.92	98.17
% filed as Fast Track	24.76	27.38	32.62
% registered as Fast Track	19.80	23.78	28.37
Deferred	13 493	13 499	13 513
IRCD FILINGS			
IRCD filings	14 321	14 747	16 109
AVERAGE RCDs PER APPLICATION			
Average RCDs per application (Direct + IRCD)	3.60	3.49	3.30
PROCESSED (DIRECT)			
Examined*	94 062	95 373	99 739
Published*	88 340	94 595	99 693
Registered*	91 482	93 161	97 032
RENEWALS (DIRECT)			
All renewals	73 445	74 735	76 730
1 st renewals	44 416	45 386	44 090
% of 1 st renewals	53.73	54.69	53.46
2 nd renewals	21 343	19 991	21 414
% of 2 nd renewals	58.34	59.10	59.27
3 rd renewals	7 686	9 358	11 226
% of 3 rd renewals	65.28	62.44	61.46
RECORDALS (DIRECT)			
All recordals	10 087	11 626	11 922
INVALIDITIES (DIRECT)			
All filings	360	550	505
No of decisions*	360	375	332
APPEALS			
2018	2019	2020	
All filings	2 588	2 987	2 479
No of decisions*	2 603	2 506	2 563
Cases lodged before GC	294	269	278
Cases lodged before CJEU	69	56	40
INSPECTIONS			
2018	2019	2020	
All filings	5 159	4 599	3 304

* Text and figures in bold font denote the Office's outputs.

Service Charter

		2020 Compliance ⁽¹⁾	Q1 2020		Q2 2020		Q3 2020		Q4 2020	
QUALITY ⁽²⁾			Perf.		Perf.		Perf.		Perf.	
% cases compliant with quality criteria (without critical errors)	EUTM AG decisions	99-94 %	98.40		97.90		97.60		97.74	
	EUTM opposition decisions	99-94 %	96.69		95.19		95.20		96.12	
	EUTM cancellation decisions	99-94 %	97.27		98.20		98.97		96.43	
	RCD registration	99-94 %	100.00		100.00		99.68		99.68	
	RCD invalidity decisions	99-94 %	96.43		98.46		98.31		98.44	
FAST TRACK			Perf.	AVG	Perf.	AVG	Perf.	AVG	Perf.	AVG
EUTMs	Publication	15-20 working days	20	4.4	20	4.3	20	6.3	20	6.3
	Registration	4-5 months	4.7	3.5	6.2	4.2	4.2	3.5	4.2	3.6
RCDs	Registration	2-3 working days	1	0.1	2	0.0	1	0.1	2	0.1
EUTM DIRECT FILINGS										
Straightforward	Publication	1-2 months	0.8	0.4	0.9	0.3	1.1	0.6	1.1	0.6
	Registration	5-6 months	5.0	4.0	6.1	4.5	4.6	3.8	4.9	4.2
Non- straightforward	First action	1-2 months	1.5	0.5	1.8	0.4	1.8	0.7	1.8	0.6
INTERNATIONAL REGISTRATIONS (IRs)										
Straightforward	Registration	6-7 months	5.2	5.1	7.4	5.7	5.9	4.8	4.8	4.6
Non- straightforward	First action	1-2 months	2.0	0.6	1.6	0.5	1.7	0.5	1.8	0.6
RCDs										
RCDs	First action	10-15 working days	9	5.7	8	5.1	9	6.8	9	4.9
	Registration	10-15 working days	10	4.5	10	4.5	12	6.7	10	3.4
INTER PARTES										
EUTMs	Opposition decisions	2-4 months	3.8	2.4	3.9	2.1	3.7	2.0	3.8	2.4
	Cancellation decisions	3-5 months	11.9	4.6	10.4	4.1	4.5	2.6	4.8	3.2
RCDs	Invalidity decisions	2-4 months	3.7	2.7	3.7	2.7	3.8	2.6	4.0	3.1

(1) **Green** = Excellence; **Blue** = Compliance; and **Red** = Action Needed.

(2) All quality indicators reflect the past 3 months, except the quality indicators for cancellations and invalidities that reflect the past 6 and 12 months respectively.

		2020 Compliance (1)	Q1 2020		Q2 2020		Q3 2020		Q4 2020	
QUALITY (2)			Perf.		Perf.		Perf.		Perf.	
RECORDALS										
Recordals	Recordals	11-22 working days	8	1	6	1	8	1	7	1
APPEALS (3)										
Appeals	Decisions <i>ex parte</i>	6-12 months	5.2	2.8	5.2	3.0	5.0	2.8	5.2	2.9
	Decisions <i>inter partes</i>	6-12 months	4.8	3.0	5.3	3.0	5.0	2.7	5.5	3.3
	From deadline for filing observation to remittal to the Boards – <i>inter partes</i>	35-70 days	33	17.1	25	0.4	29	9.9	24	6.3
	From deadline for filing rejoinder to remittal to the Boards – RCDs	35-70 days	7	3.0	8	3.5	0	0.0	1	0.0
ACCESSIBILITY			Perf.	AVG	Perf.	AVG	Perf.	AVG	Perf.	AVG
Accessibility	Telephone calls to first line/ e-business hotline	16-20 seconds	14.40	6.50	16.19	5.92	14.60	6.25	14.20	6.40
	Emails answered by Information Centre	3 to 4 working days	2.20	0.70	2.43	0.59	2.62	0.71	2.40	0.60
	Answer to complaints	6-9 working days	5.00	3.70	5.00	4.24	5.33	4.62	5.30	4.30
	Direct and callback accessibility	99-95 %	99.00	-	97.63	-	98.64	-	98.90	-
	Website availability	99-98 %	99.50	-	99.35	-	99.09	-	99.76	-

(3) 85 % sample for Decision *ex parte* and *inter partes*; 98 % sample for remaining Appeal indicators.

Balanced Scorecard

Key Performance Indicators (KPIs)			
STRATEGIC DRIVER 1 INTERCONNECTED, EFFICIENT AND RELIABLE IP SYSTEM FOR THE INTERNAL MARKET			
Goal 1.1 Matching tools and practices with users' needs			
Key Initiative 1.1.1 Sustainable collaborative networks for the benefit of users	2018	2019	2020
Trade marks available in TMview (No)	52 502 892	55 966 558	61 598 703
Designs available in DesignView (No)	14 363 412	14 916 463	16 789 324
Number of tools and common practices implemented for the benefit of the users (No)	706	843	890
Key Initiative 1.1.3 Enhanced engagement with global partners for the extension of common tools and practices	2018	2019	2020
Non-EU offices implementing tools and practices (No of implementations)	109	133	210
Goal 1.2 Stepping up IP enforcement in defence of rights holders and society			
Key Initiative 1.2.1 Effective tools and capabilities for IP enforcement	2018	2019	2020
IP Enforcement Portal usage by enforcement authorities (No of connections)	3 652	3 884	3 656
Goal 1.3 Developing an IP knowledge hub			
Key Initiative 1.3.1 New and improved information resources	2018	2019	2020
Usage of national court judgments database (No of searches)	4 161	6 226	5 853
Key Initiative 1.3.2 Evidence-based contributions to IP policy making	2018	2019	2020
Attendees satisfaction with events (%)	96.9	95.2	95.8
Key Initiative 1.3.3 Wider and deeper understanding of IP	2018	2019	2020
External participants in training activities (No)	10 452	18 215	19 653
External stakeholders' satisfaction with training activities (%)	86.5	89.4	88.3
Social media followers (No)	54 874	74 515	97 826
Global advertisement value equivalency (€)	7 917	11 022	11 286
Results of Observatory awareness activities (reach in millions)	N/A	N/A	1 946
STRATEGIC DRIVER 2 ADVANCED AND CUSTOMER-CENTRIC SERVICES			
Goal 2.1 Improved user experience, quality and efficiency			
Key Initiative 2.1.1 Quality of products and services	2018	2019	2020
Usage of TMview, DesignView and TMclass (No of monthly searches)	2 202 598	3 100 955	2 801 119
Level of achievement of the Quality Service Charter objectives (%)	96.7	96.6	100.0
Customer satisfaction with IP for You outreach events (%)	N/A	N/A	96.0
User satisfaction with customer services provided (immediate feedback) (%)	N/A	N/A	80.0
User satisfaction with online tools (immediate feedback) (%)	N/A	N/A	84.0
Key Initiative 2.1.2 Effective and simplified working practices	2018	2019	2020
Office tools availability (%)	99.78	99.44	99.36
Automatic fee handling (%)	95.6	96.1	96.6
EUTM applications automatically classified (%)	47.5	48.6	55.4
EUTM applications where expressions automatically classified (%)	90.6	88.0	87.9
EUTM automatic translations (%)	70.6	90.7	92.0
Usage of Similarity (No of visits)	8 677	15 096	15 463
Goal 2.2 New services to increase added value to businesses			
Key Initiative 2.2.1 Before filing and during registration	2018	2019	2020
Formalities deficiency rate (%)	1.5	2.2	2.0
Classification deficiency rate (%)	13.8	14.0	11.7
AG objection rate (%)	6.6	6.7	5.4
RCD deficiency rate (%)	21.9	20.6	20.9
Appeals confirmation rate <i>ex parte</i> decisions (%)	82.0	79.0	80.0

Appeals confirmation rate <i>inter partes</i> decisions (%)	72.0	75.0	72.0
General Court confirmation rate (%)	77.1	79.4	79.1
TMs and RCDs straight-through cases (%)	72.8	73.1	75.3
EUTM Fast Track rate (%)	38.32	40.69	47.60
Goal 2.3 IP services for SMEs			
Key Initiative 2.3.1 Increasing the successful use of IP by SMEs			
EU SMEs direct filers, TMs and RCDs straight-through cases (%) ⁽⁴⁾	N/A	N/A	N/A
Key Initiative 2.3.2 Increasing SMEs' knowledge on the use and value of IP rights			
Organisations participating in the SME Programme (No)	N/A	N/A	126
STRATEGIC DRIVER 3 DYNAMIC ORGANISATIONAL SKILL SETS AND INNOVATIVE WORKPLACE OF CHOICE			
Goal 3.1 Continuous learning and sustainable staff engagement			
Key Initiative 3.1.1 Dynamic skill sets			
Internal staff learning effectiveness (%)	N/A	92.1	90.1
Training days per employee (training days/employee)	6.01	5.14	4.75
Satisfaction with internal training activities (%)	84.4	84.6	86.0
Number of hits on the e-learning portal (No)	170 302	170 698	199 189
Key Initiative 3.1.3 Staff development and engagement			
Staff mobility rate (%)	4.8	4.7	6.1
Absence due to sickness (short term) (%)	4.4	2.7	3.4
Absence due to sickness (long term) (%)	0.5	0.2	0.5
Goal 3.2 Evolving with the Digital Era			
Key Initiative 3.2.1 Modernising and consolidating digital infrastructures and services			
Reviewed personal data processing operations found compliant (%)	90.0	85.0	93.8
IT security incidents (No of incidents)	0.0	0.0	0.0
Key Initiative 3.2.3 Expanding Office tools			
IT investments in new projects and initiatives versus total IT cost (%)	42.6	39.8	41.7
IT cost per IT user (€)	15 795.9	14 599.3	11 892.0
Procedures initiated and executed digitally (%)	86.8	93.2	94.0
Budget forecast accuracy (expenditure) (%)	95.9	100.1	96.2
Budget forecast accuracy (revenue) (%)	98.2	101.1	103.8
Budget forecast accuracy (carry-over) (%)	84.3	83.5	89.3
Compliance with Internal Audit recommendations (%)	88.5	85.4	87.0
Product workforce unit cost (€)	666	667.3	659.0
Goal 3.3 Towards the future sustainable workplace			
Key Initiative 3.3.1 A truly sustainable organisation			
Paper consumption per on-site worker (kg/on-site worker)	11.98	10.62	5.44
Water consumption per on-site worker (m ³ /on-site worker)	7.33	7.08	3.68
Energy consumed (gas + electricity) per on-site worker (MWh/on-site worker)	5.60	5.03	4.23
Quantity of renewable energy produced on-site (%)	28.33	30.05	34.61

⁽⁴⁾ The SME information required to report this indicator is not yet available in the Office database due to technical issues. The indicator will be reported for the first time in 2021.

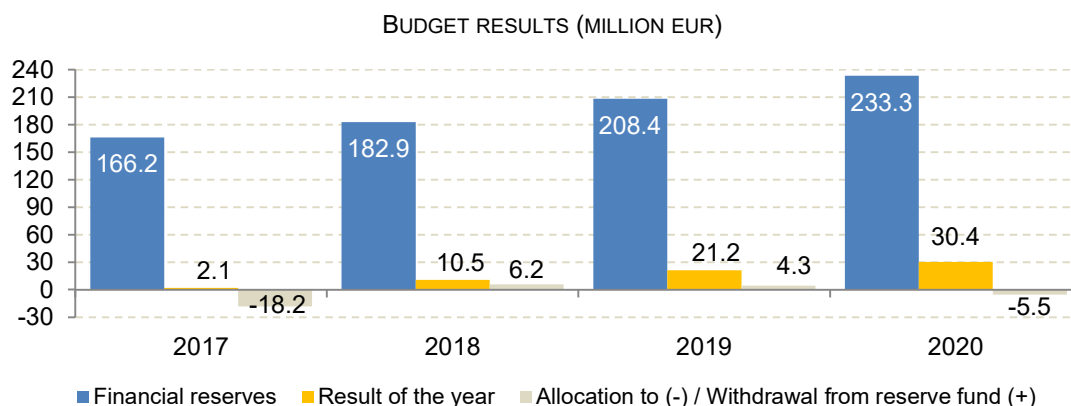
APPENDIX B – Management of resources and assurance

1 Budget and financial management

1.1 Budget results

The financial reserves in 2020 are the consequence of the budget results carried over from the previous years, the 2020 Budget result and the allocation to the reserve fund.

Pursuant to Article 172(10) of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (EUTMR) the Office has a reserve fund, which must cover the appropriations in Titles 1, 2 and 3 of the adopted Budget.



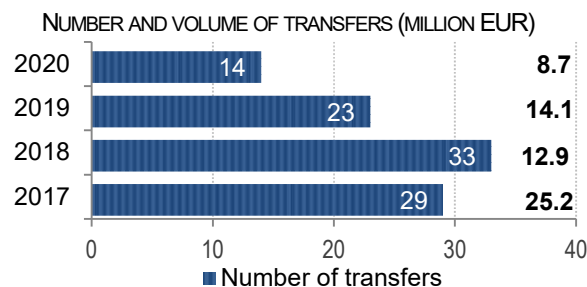
At the end of 2020, the reserve fund amounts to EUR 244.1 million in accordance with the provisions of Article 172(10) EUTMR and the budgetary balance carried over to 2021 amounts to EUR 233.3 million, of which EUR 26.6 million⁽¹⁾ are reserved for offsetting payments to Member States and EUR 19.0 million are reserved for the co-financing of EU-funded projects.

⁽¹⁾ Distributed as follows: EUR 12.7 million triggered in 2019 (paid in January 2021), and EUR 13.9 million triggered in 2020 (to be paid in January 2022).

1.2 Number and volume of budget transfers

In 2020, budget transfers decreased in terms of numbers and volume.

More detailed information about these transfers can be found in the annual accounts.



1.3 Budget revenue, expenditure and payments

The Office's operational revenue is generated by fees from the registration of European Union trade marks (EUTMs) and registered Community designs (RCDs), income from interest and other operational revenue.

Budget revenue executed (million EUR)	2017	2018	2019	2020
Revenue generated by fees	231.7	239.2	254.5	277.3
Interest income	0.0	0.0	0.0	0.0
Other operational revenue	0.5	0.3	0.1	0.3
Total operational revenue	232.2	239.5	254.6	277.6

In 2020, the Office accrued⁽²⁾ 170 865 EUTM application fees (compared with 155 344 in 2019) and 115 150 design fees (compared with 108 467 in 2019) as revenue. EUTM and design fees recorded as revenue increased by 8.9 % compared with 2019.

The distribution of revenue from EUTMs and RCDs is relatively stable. In 2020, the EUTM share of the total fees revenue stood at 88.6 % compared with 88.3 % and 88.2 % in the two preceding years. The Office receives revenue not only from fees for registering EUTMs and RCDs, but also from fees for post-registration procedures, such as renewals, recordals and inspections. Basic fees, fees for additional classes, international application fees and renewal fees made up 96.6 % of all EUTM fees received, a stable proportion compared to 96.2 % in 2019.

In 2020, 137 512 incoming payments from clients were received by the Office (+ 17.7 %).

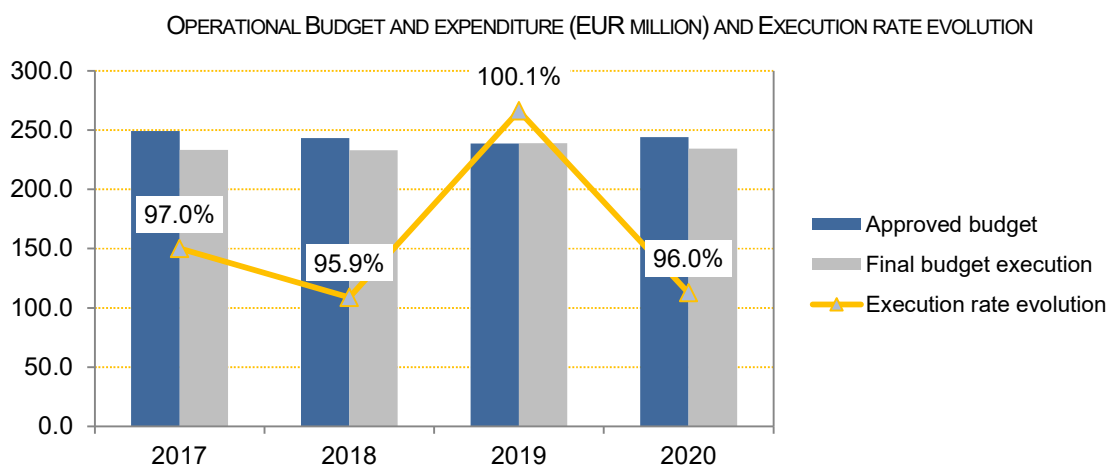
E-payments (payment by debit or credit card) have increased over the last few years. Their share of the total number of incoming payments is 47.1 %, whereas in terms of incoming funds they represent 19.5 %.

The table below illustrates the Office's operational expenditure over the last four years. It includes not only expenditure on staff, but also all expenditure on the functioning of the Office, such as IT, buildings and equipment (operating expenditure), and all expenditure on core activities, such as Observatory activities, translations and cooperation activities with EU national and regional IP offices (specific expenditure).

⁽²⁾ This means that the fee payment has been received and the filing fee was verified and included in the accounts.

Budget expenditure executed (million EUR)	2017	2018	2019	2020
Staff expenditure (Title 1)	104.6	114.0	123.0	125.7
Operating expenditure (Title 2)	75.3	65.6	63.5	56.6
Specific expenditure (Title 3)	53.1	53.4	52.4	52.0
Total operational expenditure	233.0	233.0	238.9	234.3

The budget execution rate was 96 %. The following chart shows the budget execution trend, focusing on three main titles.



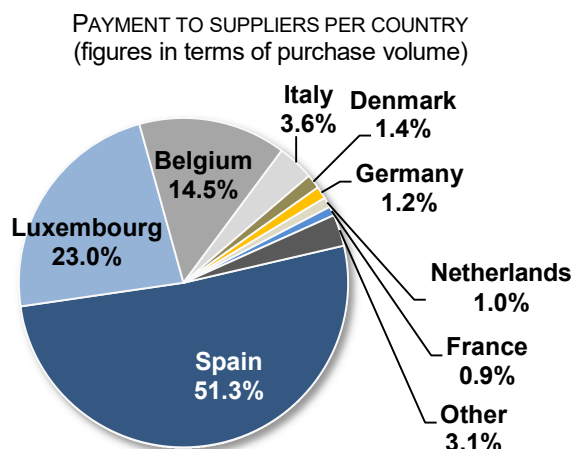
In the context of mobilising its financial reserves in support of EU IP policies, the Office contributed EUR 3.6 million to EU-funded projects in 2020 under Title 4 of the Budget.

Finally, EUR 12 million corresponding to the offsetting mechanism provided for under Article 172 (EUTMR), which was automatically triggered for the financial year 2018, was paid in 2020 under Title 5 of the Budget.

1.4 Vendors and payment terms

In 2020, approximately 51.3 % of purchases were from Spanish suppliers, while 48.7 % were from suppliers based elsewhere (figures in terms of purchase volume). Duty travel, committees, interviews, cooperation agreements with Member States and salaries were not included.

The Office follows a policy of paying its suppliers as fast as possible. The official payment terms are 30 or 60 days, depending on the type of contract. In 2020, the average payment time was six days, in line with the payment performance of the previous years.



In 2020, two payments resulted in EUR 434 of late payment interest being charged.

1.5 Activity-based budgeting perspective

The results and breakdown of the Office's expenditure and staff by strategic driver (SD) during the year is shown below.

The final budget execution amounted to EUR 234.3 million and can be detailed by SD in terms of financial and human resources.

Strategic Driver	Budget 2020 (million EUR)	Execution 2020 ⁽³⁾ (million EUR)	Variation	Budget 2020 (FTE)	Execution 2020 ⁽⁴⁾ (FTE)	Variation
SD1 – Interconnected, efficient and reliable IP system for the Internal Market	58.7	54.0	– 8.1 %	147	141	– 4.1 %
SD2 – Advanced customer-centric services	90.5	87.0	– 3.9 %	584	572.5	– 1.9 %
SD3 – Dynamic organisational skill sets and an innovative workplace of choice	94.9	93.3	– 1.7 %	314	305.2	– 2.7 %
Total	244.1	234.3	– 4.0 %	1 045	1 019	– 2.5 %

As regards the EUR 244.1 million envisaged in the Budget, the actual expenditure was almost EUR 10 million or 4.0 % less than initially budgeted. This deviation is mainly concentrated in SD 1 (– EUR 4.8 million or – 8.1 %) as consequence of the limitations

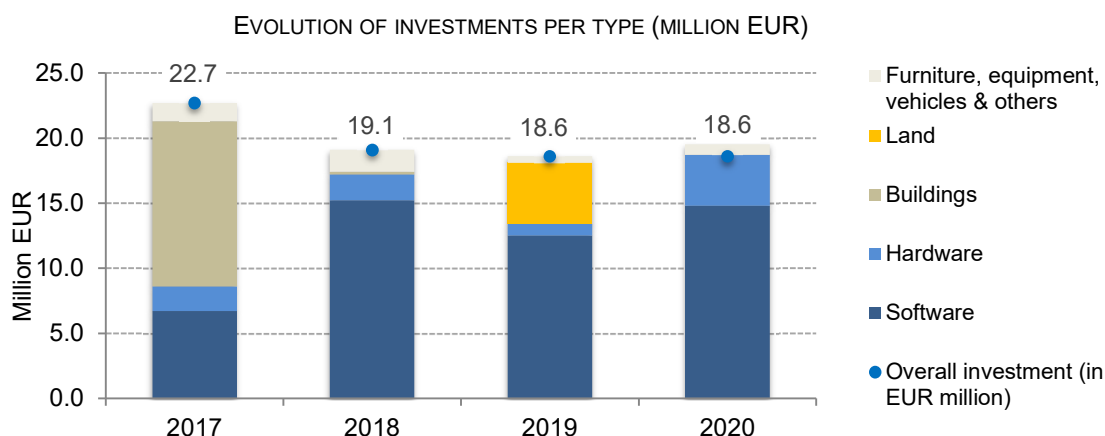
⁽³⁾ Based on payments and commitments.

⁽⁴⁾ Based on full-time equivalent (FTE) – officials, temporary agents, contract agents, SNEs.

imposed by social distancing affecting events and duty travel and in SD 2 (– EUR 3.5 million or – 3.9 %) mainly due to delayed entries into service as well as the limited presence on Office premises, all relating to the COVID-19 pandemic.

1.6 The investment perspective

In line with the Office's Strategic Plan (SP2025), investments in fixed assets continued to be intense in 2020, in particular with regards to software.



Investment amounted to EUR 19.5 million, of which EUR 14.8 million was for software, EUR 3.9 million for computer hardware and EUR 0.8 million for furniture, equipment, vehicles and others.

1.7 Treasury

The Office's treasury is composed of all funds deposited in current accounts, call accounts and short-term deposits⁽⁵⁾.

The Office's treasury management is based on guidelines, which were approved by the Office's Budget Committee (BC). They were updated in November 2019. They require that the financial entities with which the Office keeps its funds have at least an 'A –' long-term rating with two registered and certified rating agencies, in line with the European Commission's policy. For operational banks⁽⁶⁾, the Office may hold a maximum amount equivalent to three months of payments with financial entities that do not comply with this requirement.

The Office's risk diversification strategy is based on three elements:

- a distribution of funds by category of bank, where 40.4 % of all funds are held in central bank accounts at the end of the year;
- three months' coverage of outgoing payments for banks not complying with the 'A' criterion; and
- geographical distribution.

⁽⁵⁾ A detailed breakdown is available in the [annual accounts](#).

⁽⁶⁾ Banks used by the Office for handling incoming and outgoing payments.

The Office’s treasury increased by EUR 30.9 million during 2020, and reached EUR 544.2 million. This amount comprises a positive cash flow of EUR 51.9 million generated by the Office’s operating activities and offsetting; a negative cash flow from the interest yielded and bank charges of EUR 2.0 million; and asset investments of EUR 19.0 million.

As part of the total treasury, the Office is required to keep, among other elements, the following:

- EUR 244.1 million corresponding to the reserve fund;
- EUR 33.3 million corresponding to advanced payment by customers;
- EUR 14.6 million coming from the pre-financing received from the European Commission for EU-funded projects;
- EUR 26.6 million reserved for future offsetting payments generated during 2019 and 2020;
- EUR 62 million corresponding to three months of expenditure as operational treasury for payments.

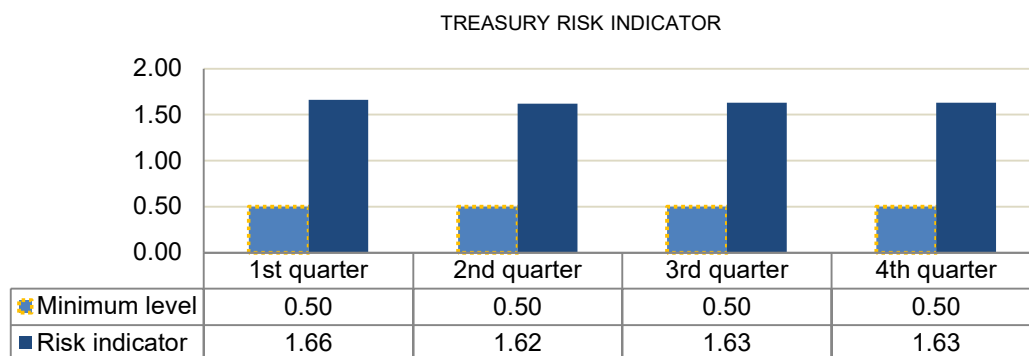
The net amount of treasury available is therefore approximately EUR 163.6 million and is being mobilised since 2020 to support EU policies in accordance with the recommendation of the European Court of Auditors.

This includes the Office’s contribution to EU-Funded projects and also, as of 2021, the Office’s financing of the European School of Alicante and the Office’s contribution to a EUR 20 million SME IP action within the COSME programme in the context of the post COVID-19 recovery plan of the Commission, all performed under agreements concluded with the European Commission in accordance with Article 7 of the Office’s Financial Regulation⁽⁷⁾.

These contributions to Union Policies estimated at EUR 32.8 million according to the 2021 budget, will contribute to rapidly reduce the level of the Office’s available treasury.

The Office follows up on the credit ratings of its banks periodically and has established a risk indicator. This indicator assigns points to each of the Office’s banks according to their rating (e.g. 1 for an A rating, 1.5 for an AA, 3 for an AAA). Funds deposited at each bank are then weighted accordingly.

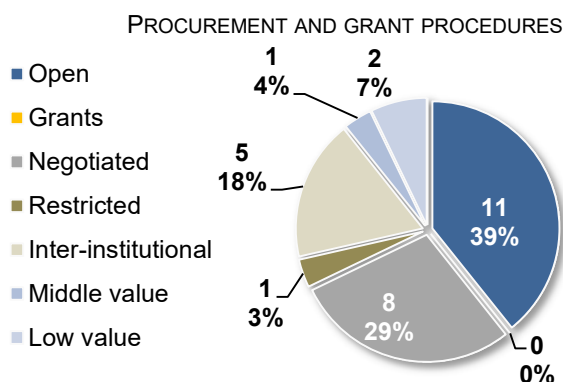
The risk indicator for the year shows that the ‘A –’ credit rating was fully met.



⁽⁷⁾ Regulation BC-1-2019 of the Budget Committee of the European Union Intellectual Property Office of 10 July 2019 laying down the financial provisions applicable to the Office (Financial Regulation).

The Office has also set up an internal cross-departmental treasury committee, composed of staff working both within and outside the Finance Department, to advise on issues related to treasury management. In 2020, due to the stability of the financial markets, the degree of diversification reached and the relative stability of the level of treasury, the committee carried out four general reviews of the treasury situation. Furthermore, the Office’s BC was informed of the treasury management situation at each of its 2020 meetings. Moreover, the chairperson and deputy chairperson were informed on a monthly basis.

The Office’s policy is to benefit from the interest generated mainly by call accounts, short-term deposits and current accounts. As in former years, and given the situation of the financial markets, security aspects had clear priority over yield in 2020.



1.8 Procurement and grants

In 2020, the procurement of necessary services continued without disruptions, despite the COVID-19 pandemic. Some planned procurement and grant procedures were cancelled, partly due to the pandemic, while some contracts

were amended and new procedures were launched to respond to specific requirements resulting from the new circumstances.

The chart gives an overview of the different procedures carried out, as well as the total number of procedures closed in 2020 (figures are shown in absolute and relative values).

The average duration of the different framework contracts signed in 2020 was 4 years, and the total procurement volume for these procedures is EUR 175 million.

For procedures above EUR 15 000, the analysis of the average time spent managing a procurement procedure by the different stakeholders involved is as follows:

- the largest contribution to a procedure (57 %) came from the requesting departments and their relevant authorising officers, and it includes preparing the technical specifications, validating the call for tenders documentation, evaluating the tenders and the award process up to the signature of the contract;
- in 2020, the average duration of a procurement procedure was 290 calendar days.

1.9 Waived recovery orders

According to Article 66 of Regulation BC-1-2019 (the Office’s Financial Regulation), Article 101 of the EU Financial Regulation⁽⁸⁾ applies to the Office *mutatis mutandis*. This article states that each year a report on recovery orders waived must be drafted. During 2020 no recovery orders were waived.

⁽⁸⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the [European] Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012.

1.10 Negotiated procedures in accordance with Article 74 (10) of the EU Financial Regulation

This article states that authorising officers by delegation shall record, for each financial year, contracts concluded under the negotiated procedures.

The following table shows the contracts concluded during the year, classified by type of procedure (for more information, see the paragraph on Procurement and grants).

Consolidated Annual Activity Report 2020 – Appendices

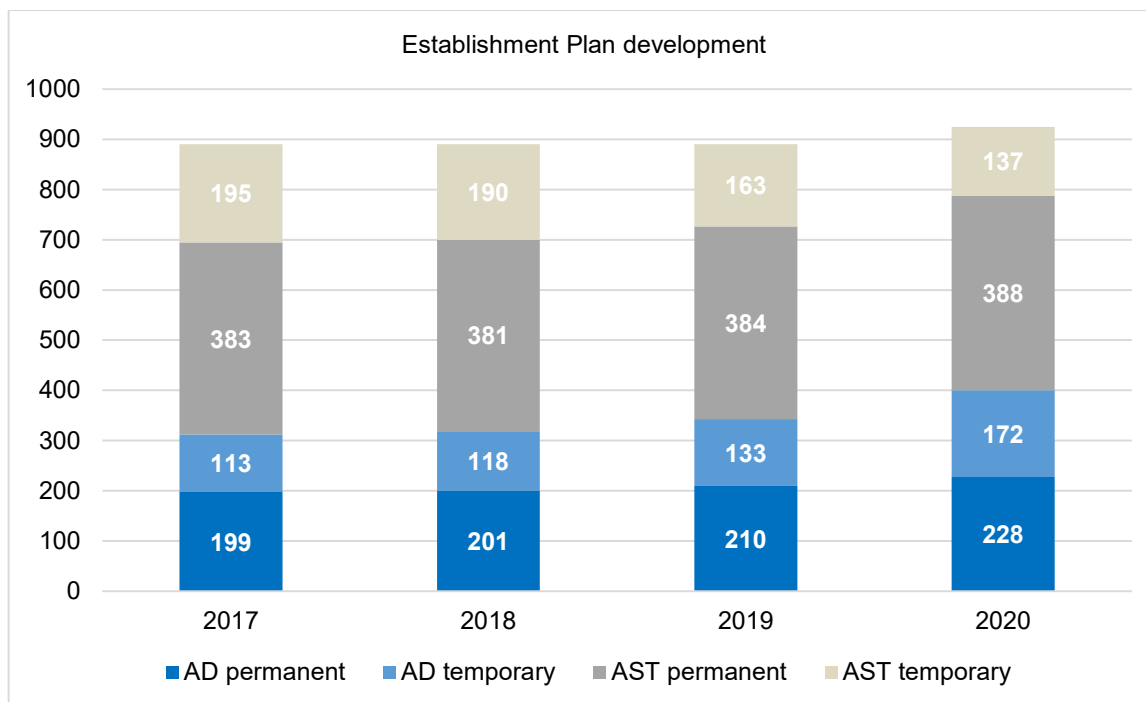
Summary of purchases used for procurement of goods and services in the year									2020
PROCEDURE		PROPERTY TRANSACTIONS		PURCHASE OF GOODS		PURCHASE OF SERVICES		TOTAL	
		Number of contracts concluded	Value of contracts	Number of contracts concluded	Value of contracts	Number of contracts concluded	Value of contracts	Number of contracts concluded	Value of contracts
Open or restricted procedure	Lowest priced tender	3	144 230.06	3	300 734.28	1	245 005	7	689 969.34
	Best value for money	2	185 908.59	41	1 910 724.98	277	58 097 614.2	320	60 194 247.77
	TOTAL	0	0.00	0	0.00	0	0.00	327	60 884 217.11
Negotiated procedure	EUR 60 000 or less	0	0	2	23 316.67	31	125 091.17	33	148 407.84
	Above EUR 60 000	5	409 355.5	2	201 600	16	727 751.78	23	1 338 707.28
	Additional contract tied by necessity to an original contract	0	0	0	0	0	0	0	0.00
	Invitation to tender produced no results	0	0	0	0	3	76 105.98	3	76 105.98
	Middle value	0	0	0	0	3	27 520	3	27 520.00
	Other technical and/or legal reasons	0	0	4	305 862.02	34	1 415 607.67	38	1 721 469.69
	Urgent need	0	0	0	0	0	0	0	0.00
	Competitive with negotiation or dialogue (all others)	0	0	0	0	0	0	0	0.00
	Concessions	0	0	0	0	0	0	0	0.00
TOTAL	0	0.00	0	0.00	0	0.00	100	3 312 210.79	
Other types of procedure	Call for expressions of interest	0	0	0	0	2	94 537.2	2	94 537.20
	Grants	0	0	0	0	13	543 705.62	13	543 705.62
	External actions	0	0	0	0	0	0	0	0.00
	Experts	0	0	0	0	0	0	0	0.00
	Prizes	0	0	0	0	0	0	0	0.00
	TOTAL	0	0.00	0	0.00	0	0.00	15	638 242.82
Contracts of the Commission and other institutions/bodies	Commission	0	0	29	3 492 619.63	117	7 912 508.5	146	11 405 128.13
	Other institutions/bodies							0	0.00
	TOTAL	0	0.00	0	0.00	0	0.00	146	11 405 128.13
							TOTAL	588	76 239 798.85

2 Human resources management

2.1 The Establishment Plan and its development

The Office's Establishment Plan comprises the available posts in the Budget by nature of post, function group and grade. The posts are allocated according to the Office's Annual Staff Policy Plan approved by the Management Board (MB)⁽⁹⁾, and in the Office's Budget approved by the BC.

The chart below shows the development of the Office's Establishment Plan over the last four years, distributed by nature and function group.



In 2020, the number of posts in the Establishment Plan increased by 35, from 890 in 2019 to 925. Additionally, minor methodological adjustments were carried out following the transformation of 30 posts to align the Establishment Plan with the number of staff at the time due to promotions, new recruitments and certifications, as well as the replacement of staff departures with lower grade staff.

These 35 additional posts in the Establishment Plan, which the BC were asked for, were distributed based on the principles of 70 % / 30 % (permanent/temporary) and 60 % / 40 % (AD/AST). In line with the Office Staff policy, of the 35 posts, 12 were envisaged for SP2025 projects, 3 for EU-funded projects and the remaining 20 for the transformation of contracts agents into temporary agents.

2.2 Job-screening benchmark

The Office regularly runs a benchmarking and job-screening exercise. This exercise generates figures on (1) administrative support and coordination, (2) operational and (3) neutral job types

⁽⁹⁾ Please refer to Appendix 4 – Annual Staff Policy Plan of [2020 Work Programme](#).

in all organisational entities. The definition of each of these three categories was agreed in a working group composed of representatives of the Agencies and the EC.

The table below shows the distribution of the Office's workforce in 2020, in terms of full-time equivalents (FTEs) for officials and temporary agents (TAs). In short, 71.3 % of FTEs were dedicated to operational activities, a significant increase compared with 2019; 20.7 % to administrative support and coordination, and 8.0 % to neutral tasks.

	Administrative support and coordination		Neutral		Operational
	Administrative support	Coordination	Finance and control	Linguistic tasks	
FTEs	149.44	15.87	63.81	0.77	571.40
Percentage of total	18.7 %	2.0 %	7.9 %	0.1 %	71.3 %
Subtotal FTEs	165.31		64.57		571.40
Subtotal percentage of total 2020	20.7 %		8.0 %		71.3 %
Subtotal percentage EUIPO 2019	20.1 %		8.7 %		71.2 %
Average % of job-screening 2014 (replies from 23 Agencies)	21.4 %		13.9 %		64.7 %

3 Assessment by management

Assessment by management has to meet the requirements laid down in the EU Financial Regulation on the internal control of the Budget's implementation. It is based on the results of the control procedures performed by Office staff and also refers to aspects of the legality and regularity of the underlying transactions carried out.

Internal management body	Executive Director	Deputy Executive Director	Head of Cabinet	President of the Boards of Appeal	Chairperson of the Boards of Appeal	Directors	Deputy Directors	Chief Economist	Accounting Officer	All heads of service	Head of service of Internal Audit	Corporate Governance Service	Communication Service	Team leaders
Management and Advisory Committee (MAC)	X	X	X	X		X		X			X	X	X	
Enlarged Management and Advisory Committee (EMAC)	X	X	X	X	X	X	X		X			X		By invitation

The MAC and the EMAC meet regularly to:

- discuss and advise on important issues concerning Office operations;
- and to review the performance of Office activities;
- review progress of the SP2025;
- review the achievement of the goals set in the annual work programme.

3.1 *Ex ante* and retrospective evaluations of programmes and activities

Article 29 of the Office's Financial Regulation requires the Office to, among others, perform *ex ante* and retrospective (*ex post*) evaluations of those programmes and activities that entail significant spending. The Office consistently fulfilled this requirement throughout the 2020 Strategic Plan (SP2020) by various means.

As regards *ex ante* evaluations, all strategic initiatives were presented for approval via standardised project briefs, which describe and assess in detail relevant aspects and criteria of the proposed initiative(s) such as the underlying business case, vision/mission, envisaged objectives, required human and financial resources, risks, expected benefits and added value, etc. Before submitting these projects briefs to the Executive Director (ED) for approval, they all underwent a comprehensive review cycle, which ensured the analysis and acceptance of the pertinent stakeholders.

With regard to retrospective evaluations, each completed strategic initiative was subject to

an end project report through which the resulting achievements were thoroughly assessed and compared against the objectives in the related project brief. The various chapters within the end project report address relevant evaluation criteria such as effectiveness, efficiency, coherence, relevance and EU added value. These are additionally often referred to in a summarised manner within the annex section of the respective end project report. Similarly to the preceding related project briefs, the end project reports also underwent a review cycle involving all relevant stakeholders, thus ensuring their acceptance before submitting them to the ED for approval. The retrospective evaluation of the Office's SP2020 initiatives was also addressed through two benefits reports that highlight the resulting achievements and obtained benefits: the *SP2020 Benefits Report* and the [External SP2020 Achievements Assessment Report](#). While the former portrays an internal view of the achieved results, the latter was drafted by an external service provider, thus providing an external assessment and view. Both reports were acknowledged by the Management Board and Budget Committee (MB/BC) in November 2020. The conclusions of *ex post* retrospective evaluations resulting from the SP2020 were considered during the development of the SP2025 and in the definition of the SP2025 strategic projects and European cooperation projects, both of which have been approved by the MB/BC.

With regard to Article 29(4) of the Office's Financial Regulation, which requires the ED to 'prepare an action plan to follow up on the conclusions of the evaluations referred to in paragraph 3', compliance is ensured by the annual prioritisation exercise that was initiated in 2020 in view of the impending launch of the SP2025, and which serves as one of the key mechanisms for the follow-up of the yearly implementation of the SP2025. Furthermore, within this context reference is made to the:

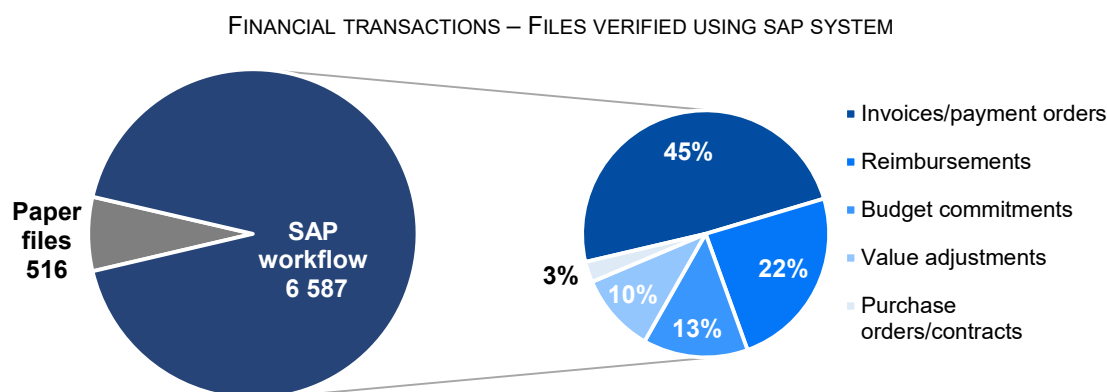
- recent evaluation of the Observatory;
- fact that the Office's founding regulation provides for an evaluation of the EUTMR in 2021 and every five years thereafter;
- Office's Annual Work Programmes;
- regularly performed internal and external audits.

3.2 Ex ante verification

Ex ante verification is an essential element of the Office's internal control system. In line with the 'four-eyes' principle, the *ex ante* function verifies the legality and regularity of all financial transactions and ensures that all transactions comply with the requirements of the Office's Financial Regulation and other applicable rules and regulations.

The Office has opted for a decentralised model. On the one hand, financial *ex ante* verification is carried out centrally within the Finance Department, focusing on the legality, regularity and compliance with the legal framework. On the other hand, the operational *ex ante* verification, including compliance with the principle of sound financial management, is carried out by the authorising officer responsible when authorising an operation.

Since October 2017, *ex ante* verification is performed using a risk-based approach, where all financial transactions are checked, but depending on their level of associated risk the scope of *ex ante* verification varies. For routine administrative expenditure below EUR 5 000, a focused review is performed. For the rest of the files a more detailed verification is carried out. This approach is complemented by a risk-based *ex post* verification.



As seen in the chart, files verified directly using the SAP system relate to budget commitments, value adjustments (supplementary commitments and cancellations), purchase orders, invoices and payments. Since Q2 2020, fee reimbursements are also processed through SAP.

3.3 *Ex post* evaluation

Ex post evaluation is laid down in Article 28 of the Office's Financial Regulation to improve decision-making. The evaluation criteria are relevance, effectiveness, efficiency, sustainability, impact, coherence/complementarity, and value added. Internally, individual projects and their performance and early materialised benefits are evaluated through the submission of an end project report, as part of the closure of the project process.

Externally, a total of 15 *ex post* on-site visits related to cooperation agreements were conducted between 2014 and 2018.

Most of the offices visited adopted the improvement ideas highlighted in the resulting reports. Both the national offices visited and the Office have improved internal procedures, such as storing and sharing information received during working group meetings centrally or setting up more regular follow-ups of agreements. Other improvements identified relate to monitoring the time spent on cooperation agreements as well as providing more statistical information on trade mark and design promotional activities.

3.4 Register of Exceptions

The internal control framework (ICF), adopted by the BC as required by the Financial Regulation, requires the Office to introduce a register to ensure that all instances of controls being overridden and all deviations from established processes and procedures are documented, justified and duly approved at the appropriate level.

Exceptions are notified and communicated in accordance with the principles of transparency and accountability, giving the possibility of identifying possible areas for improvement. Exceptions are followed up and corrective and new preventive measures implemented (e.g. coaching and training sessions, meetings).

During 2020, 25 exceptions (out of a total of 6 632 files) were identified, compared to 20 in 2019. All of these exceptions were registered and recorded, representing just over 0.38 % of all files dealt with.

3.5 Acts of delegation and subdelegation

Delegation of the powers of budget implementation are prepared in accordance with Article 157(4)(m) EUTMR and Article 41(1) of the Office's Financial Regulation.

Pursuant to Article 157(4)(m) EUTMR, the ED will have the functions of drawing up estimates of the revenue and expenditure of the Office and implementing the budget, which may be delegated. Moreover, in accordance with Article 2(1)(5) of the Office's Financial Regulation, the authorising officer is the Office's ED. According to Article 41(1) of the Office's Financial Regulation, the ED may delegate the powers of budget implementation to the Office's staff covered by the Staff Regulations. Those so empowered may act only within the limits of the powers expressly conferred upon them.

The delegation and subdelegations are prepared for each financial year during the previous year once the budget for the following year has been adopted. The authorising officer designates one (or more) authorising officer(s) by delegation for each budget line who may further delegate powers to staff as authorising officers by subdelegation. In principle, the authorising officers by delegation will hold the post of Director of Department. Staff holding the post of Deputy Director or Head of Service may also be authorising officers by delegation. The conditions for and possible limits of the delegation will be laid down in an act of delegation, which must be signed by the authorising officer and by the authorising officer by delegation.

Whenever a new decision on the internal structure of the Office is adopted that implies a reorganisation of the posts mentioned, all delegations are revised and may be revoked or amended whenever there is a need. The same holds when staff departures/transfers are notified/identified. In addition, the authorising officer may decide at any time to withdraw the powers they have delegated to a member of staff or their agreement to a subdelegation of powers.

The powers delegated include:

- making budget and legal commitments and carrying out the preliminary actions for these commitments;
- validating and authorising expenditure;
- establishing amounts receivable (including making financial corrections) and issuing recovery orders and cancelling established amounts receivable;
- taking individual decisions on the award of public procurement contracts, grants or prizes;
- proposing transfers of appropriations;
- waiving of recovery orders limited to certain delegated authorising officers.

The implementation of delegation decisions is managed by the Office's Finance Department, which is in charge of drafting, amending and repealing a delegation. Specific controls are

implemented accordingly in the Office's financial management system (see point 3.7) ensuring that individual delegations are respected. In addition, the Office keeps a log of identified non-compliance events (i.e. Register of Exceptions).

3.6 Instructions in accordance with Article 56 of the Office's Financial Regulation

Article 56 of the Office's Financial Regulation indicates that Article 92 of the EU Financial Regulation is applicable. That article states:

An authorising officer by delegation or sub-delegation who receives a binding instruction which he or she considers to be irregular or contrary to the principle of sound financial management, in particular because the instruction cannot be carried out with the resources allocated to him or her, shall inform the authority from which he or she received the delegation or subdelegation about that fact in writing. If the instruction is confirmed in writing and that confirmation is received in good time and is sufficiently clear, in that it refers explicitly to the points which the authorising officer by delegation or subdelegation has challenged, the authorising officer by delegation or subdelegation shall not be held liable. He or she shall carry out the instruction, unless it is manifestly illegal or constitutes a breach of the relevant safety standards.

[...]

Any instructions confirmed in the circumstances referred to in this paragraph shall be recorded by the authorising officer by delegation responsible and mentioned in his or her annual activity report.

No instructions falling under Article 56 of the Office's Financial Regulation were received in 2020.

3.7 Authorising officer delegation embedded in the financial management system

The Office has developed a clear system for the delegation of powers of authorising officer to authorising officers by delegation and subdelegation. This system is based on the following elements:

- decision of the Office's ED, which includes a comprehensive charter of the tasks and responsibilities of authorising officers by delegation and subdelegation; and
- implementation of these delegations in the Office's financial management system SAP, which guarantees that only authorised persons can approve financial transactions in the electronic workflow.

3.8 Network of administrative and financial officers and training in financial matters

Authorising officers by delegation and subdelegation are supported by administrative and financial officers, who ensure proper knowledge transfer in financial matters and form a network to share best practice. In 2020, the network met on nine occasions. The subject matter treated included:

- monthly reviews of procurement planning and External Resource Management System (ERMS) updates;

- year-end activities: closure of current year and opening the next year;
- reporting on key performance indicators (KPIs) and on the Register of Exceptions;
- providing information about changes to procedure and audit results;
- planning financial training events;
- quarterly budget execution follow-up.

Training in financial matters for financial actors is carried out throughout the year, focusing on procurement, budgeting, internal control aspects, economic files handling, accountancy and year-end closure, as well as on the use of the financial management system, SAP. Specific training sessions are also given to newly appointed authorising officers responsible.

3.9 External Resource Management System (ERMS)

The ERMS supports and promotes the optimal use of external resources in the Office and provides valuable input for the Office's decision-making processes on outsourcing.

The use of the ERMS is compulsory for all contracts over EUR 15 000 with private-sector companies. Agreements with public bodies, such as the EC services, other EU bodies, national IP offices, other national/international authorities, do not fall within the scope of the ERMS.

The ERMS is managed in a common knowledge repository. All documentation concerning direct or framework contracts (FWC), requests for offers, offers, deliverables, incidents and meeting minutes are stored in a dedicated subfolder for each Office department.

A monthly market consumption report, which follows up the market situation closely, is provided to the departments together with the monthly financial status. This information is entered on a monthly basis into the ERMS as an update in each department's overall file to help departments with their procurement planning and to prepare timely tender documentation. This monitoring contributes to improving the Office's planning of procurement procedures.

Strategic vendor management manages those vendors that are most critical to the organisation. This is performed through aggregating and consolidating critical vendor information, increased discipline in vendor communications and decisions, and executive-level visibility in key vendor relationships.

Based on the categorisation of vendors carried out with Office departments, 13 vendors (with 14 FWCs) have been identified as being strategic, based on criteria such as the total value, strategic alignment and risk associated with the vendor.

3.10 European Court of Auditors

In its 2019 annual financial audit report, the ECA concluded that 'the Office's annual accounts present fairly, in all material respects, its financial position as of 31 December 2019, and the results of its operations, its cash flows and the changes in net assets for the financial year 2019, in accordance with the provisions of its Financial Regulation and with accounting rules adopted by the Commission's accounting officer' and that the revenue and payments underlying the accounts for the year ended 31 December 2019 were legal and regular in all material respects.

The Court also made some observations that do not call into question its positive opinion. These observations are summarised below, together with the Office's replies.

Observations on the legality and regularity of transactions

Recruitment procedures

- The ECA considered that, in a procedure for establishing a reserve list where the vacancy notice established two different candidate profiles, the candidates were assessed against all selection criteria, thus giving advantage to candidates with both profiles. This led to a situation where some candidates would not have been placed on the reserve list as they would not have reached the pre-established pass mark. The ECA also indicated that, in the same procedure, the selection committee replaced a candidate who had declined an invitation for an interview with a candidate who had not reached the pre-established pass-mark without providing any documentary justification as to why this candidate, who was already employed by the Office, had been invited. The ECA considered that the selection procedure was therefore irregular, as these weaknesses undermined the principles of transparency and equal treatment of candidates.
- The ECA also recommended improvements on the declaration of absence of conflict of interest of the selection committee members.
- State of progress – decisions of the selection boards are now better documented, the audit trail has been made clearer, the recommendation to improve the declaration of absence of conflict of interest has been followed and vacancy notices with more than one profile are not published anymore.

Observation on sound financial management

Standby duty in relation to business continuity

- In the ECA's view, the activation of the business continuity plan is highly exceptional and it does not require the payment of a standby duty allowance to the senior management of the Office, but rather to its technical staff. Moreover, it stated the Office should improve its checks in connection with standby duty to prevent irregular payments.
- The Office replied that it had put in place a set of procedures in the form of a solid business continuity plan (BCP), in line with the international quality standards and the Office's internal control standards, to reduce confusion during a disaster by anticipating critical impacts and by providing directions to support an effective recovery and the return to normal operations. The Court had already raised an observation on the issue of standby duty allowances in its annual reports in 2013 and 2014. As a result, the Office presented its BCP regime in detail, including the number of managers entitled to standby duty, to the Office's BC and also set up a reinforced control mechanism in 2016. This was duly confirmed by the BC at that time and thus the observation was considered completed by the Court. The BCP regime has not changed since then.
- The Office also stated that while the activation of the BCP is exceptional, it has been activated recently due to the COVID-19 pandemic and has permitted the Office to act rapidly, which has been key to guarantee the Office's reputation and image, extending time limits for customers, reacting rapidly with suppliers and, above all, acting quickly to secure the safety of its staff while guaranteeing the 24/7 high level services to its clients. Considering the criticality of the Office's operations (over 1 000 applications per day and 600 real-time interactions with customer), senior management's continued availability and direction proved to be necessary to guarantee that the Office was fully operational with staff working remotely within 24 hours of the decision to lockdown. In addition, the Office highlighted that the amount spent on standby allowances was 0.05 % of the Budget, therefore complying with the principle of sound financial management. The undue payment identified had also been recovered.

-
- State of progress – although there had been no change to the scope of the BCP regime that was approved by the Office’s BC in 2016, detailed information was provided to the BC in November 2020 about the ECA observation as well as the scope and financial impact of the Office’s BCP. The BC received information on the allowances budgeted for 2021 per role and their total impact. It also received information on the number of staff members filling the roles and on how many of those receive management allowances. The BC took note of the information provided and reconfirmed the current size and structure of the BCP team and the corresponding amount of standby duty allowances for 2021 representing 0.05 % of the Budget. The Office’s BC is the ultimate authority responsible for these decisions, and the Office therefore understands that the observation should be closed. As regards improving the checks related to the settlements of the allowances, the Office has paid even more attention so that this will not be repeated again. The undue payment identified was recovered.

Plot of land

- The ECA commented on the acquisition of a plot of land adjacent to the Office’s headquarters. After analysing the Office’s buildings policy and its multi-annual staff policy plan, and comparing planned capacity and needs with the current building capacity, the ECA concluded that the Office’s capacities in terms of buildings and available land were already sufficient to cover the Office’s future needs, thus calling into question the Office’s decision to purchase the plot of land in 2019 and consequently whether the Office was making productive use of its surplus.
- The Office replied that the purchase of the sole plot of land available adjacent to the campus was considered necessary to secure a long-term expansion of the campus especially taking into account the absence of alternative solutions. The price paid represents less than 40 % of the debt secured by the plot of land and half the price of the initial offer, and therefore complies with the principle of sound financial management.
- The Office reminded the Court that information had been provided to the BC well in advance, and that the BC had approved this purchase unanimously.
- The Office clarified that the financial reserves were not used for the purchase of this plot as the acquisition was funded via the operational budget through the appropriations approved for this purpose. The suggestion in the Court’s opinion to productively use the reserves had initiated discussions with the EC. A first set of initiatives mobilising funds under the financial reserves was already introduced in the 2020 Budget and further actions were being set up in collaboration with the EC for 2021.
- State of progress – the purchase of the sole plot of land available adjacent to the campus was considered necessary to secure a long-term future expansion in line with the building policy to house all staff on a single integrated campus, especially taking into account the absence of alternative solutions in the event of future growth. All detailed information related to this kind of investment is duly shared with the BC in accordance with the legal framework of the Office (complying fully with the early information and prior approval procedures) and all decisions related to investments of this kind are taken by the BC who, in this case, considered it was necessary to guarantee future sustainability in terms of Office space. Furthermore in 2020, the Office, based on the comment of the Court on the need to make a productive use of its financial reserves, started to collaborate closely with the EC on several projects such as supporting SMEs and contributing more to EU-funded projects launched by the Commission and implemented by the Office. This is still being consolidated in 2021 and should continue in the years to come.

Observations from previous years

In its report, the ECA also commented on the status of the observations relating to the previous year. Out of eight observations, five had already been completed at the time the report was drawn

up. The section below provides a brief overview of the three observations that the ECA still considered to be ongoing.

Observations on abnormally low tender

- This observation concerns the signature of a contract for cleaning services with a tenderer who submitted an abnormally low offer for part of the contract concerning extraordinary services, according to the ECA. The ECA recommended that the Office should analyse situations of potentially abnormal offers in a rigorous manner to ensure compliance with the Financial Regulation and fair competition.
- State of progress – the authorising officer correctly exercised the discretionary power conferred on them by the Financial Regulation. The Office followed all the steps laid down in the Financial Regulation when dealing with an offer that could potentially appear as abnormally low. Moreover, the Office does not concur with the Court's statement that offering a service (which is exceptional and rarely used) for a reduced price represents unfair practice and offers unfair competitive advantage vis-à-vis competitors. The Office does not consider that it is in a position to prevent tenderers from translating their economies of scale into their offers. It is also worth highlighting that the concept of abnormally low offer is aimed primarily at ensuring that the provider can carry out the necessary services throughout the duration of the contract, which is the case for the contract in question. As the Office did not identify reasons to terminate the contract early, it is still running. A new call for tender to provide cleaning, waste treatment and gardening services is planned to be launched in 2021. The Office continues to follow all the steps provided by the Financial Regulation when dealing with an offer that could potentially appear as abnormally low. In addition, the Office added a specific clause to its tender specifications recalling that the prices should take into account minimum levels of staff remuneration, social security contributions, occupational safety and health standards, and/or other applicable schemes and standards, among others, as well as the fact that the Office might reject the tender if deemed to be abnormally low. With the actions taken by the Office in relation to this observation, the Office considers it closed.

Observations on consultancy

- The Office used a consultancy services contract, which according to the Court, in practice, resulted in the loan of staff instead of providing services. This, in the ECA's opinion, is not a service that can be offered by a consultancy company.
- State of progress – the Office has detailed guidelines on the management of external resources, which prevent confusion between consultancy and other types of services. These guidelines were revised in the light of the auditors comments to reinforce certain concepts. Moreover, the Office continued the re-internalisation of some tasks that were previously carried out by external resources. Between 2016 and 2020, 71 internalisations were carried out. With the actions taken by the Office in relation to this observation, the Office considers it closed.

Information on the FTE staff members by service providers

- The Court considered the Office should report on the FTE staff members provided by service providers executing tasks of a non-core business nature that were embedded in the core business of the Office. It considered this should be done in the programming document, as well as in the annual activity report, as this information would further increase transparency.
- State of progress – the Office replied that although this information was not required by the Financial Regulation, it would consider it for 'time and means' contracts. However, there was no 'time and means' contract implemented by the Office in 2019 and hence there was nothing to report. As such, the Office requests services under fixed price contracts and not

consultants. Therefore, it is not directly concerned by the number of external resources involved in carrying out the task. Due to this, it is not possible for the Office to provide this information in these reports. However, the Office has put great effort into reducing the number of consultants. Between 2017 and 2020 the general consultancy budget was reduced by 45 %. With the actions taken by the Office in relation to this observation, the Office considers it closed.

ECA Special Report 22/2020: Future of EU agencies – Potential for more flexibility and cooperation

- Having focused in the past on the performance of individual agencies, this was the ECA's first overall assessment of the conditions put in place by the EU to support all EU agencies in the delivery of policy for the benefit of citizens. The ECA recommends that the agencies improve performance reporting to focus not only on agencies' activities but also on their important contribution to policy implementation; and that they facilitate agencies' efforts to cooperate as centres of expertise and networking.
 - The ECA acknowledges the Office's good information system in place, by which the Office regularly reports to stakeholders on qualitative and quantitative performance in the form of dashboards, quarterly reports and others.
 - Moreover, the ECA recognises the Office's significant progress towards activity-based management, which entails regularly updating scoreboards combining budget and performance information and providing clear impact indicators assessing timeliness, quality and accessibility of the services provided.
 - The ECA also underlines the Office's commitment towards sustainability reporting⁽¹⁰⁾. The Office is currently the only agency that publishes a report of this kind.
 - The ECA recognises the Office's contribution to policy implementation, cooperation with EU expert networks and/or national focal points, its expertise and networking with other agencies to share services.
 - Finally, the Office regrets the ECA's special considerations regarding the Office's discharge arrangements that run counter to the legal framework of the Office. The Office replied that the discharge is granted by the BC, which includes one representative from the European Parliament, two representatives from the Commission and one representative from each Member State. Moreover, when granting the discharge, the Office's BC relies not only on financial and compliance matters but also quite extensively on performance considerations. The Office has a mature and well-established performance management system. Moreover, User Associations participate as observers in the MB and BC meetings, thus allowing extensive public scrutiny.
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⁽¹⁰⁾ Sustainability reporting is the practice of measuring, disclosing and being accountable to internal and external stakeholders for organisational performance towards the goal of sustainable development. This statement from the ECA performance audit is also in line with the findings from the ECA Review No 07/2019: Reporting on sustainability – A stocktake of EU Institutions and Agencies (Rapid case review), available on the ECA website at: <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=50325>

4 Management assurance

4.1 Assessment of the effectiveness of the internal control systems

The Office assessed its internal control system during 2020 and concluded that it was effective and that the components and principles were present and functioning as intended.

The table below presents the current status of the actions taken by the Office as regards the deficiencies or opportunities for improvement identified during the previous year's exercise.

PRINCIPLE	DEFICIENCY/OPPORTUNITY FOR IMPROVEMENT (IDENTIFIED IN 2019)	CURRENT STATUS
11. Selects and develops general control over technology	<p>In relation to corporate risk EUIPO_48 (appendix D), if controls prove insufficient, there may be some issues with continuity of key contractors and loss of key technical knowledge. The Office has implemented further measures to ensure a smooth transition and avoiding impacting operations and new developments.</p> <p>In addition, the Office will assess the possibility of developing and implementing further automatic controls, with the aim of increasing efficiency and consistency.</p>	<p>The Office has reinforced the controls related to the transitional phase between key contractors. These controls proved to be effective during 2020, ensuring no impact on the Office's operations.</p> <p>As regards the possibility of further automatisisation of controls, the Office has identified further opportunities for improvement that are currently ongoing: revision of controls and/or migration to other simplified, more robust systems.</p>
13. Uses relevant information	Some improvements have been identified in the area of efficient support to decision-making based on data analysis. The Office is actively working on this topic, with the proposal of the strategic projects in data governance and literacy, dissemination analysis of IP data and modernisation of the IT landscape.	The strategic project, Data Governance and Literacy, was launched in 2020, aiming to develop a data governance framework with rules and procedures on the use of corporate and operational data.

In addition to the ongoing actions from previous exercises, during the assessment of the internal control for 2020, several additional improvements were identified for Principles 11 and 13 (see table below).

PRINCIPLE	DEFICIENCY/ OPPORTUNITY FOR IMPROVEMENT
11. Selects and develops general control over technology	<p>The use of some Office tools entails international transfers that, after the Schrems II case ruling, have currently no valid transfer tool.</p> <p>The Office has been working extensively with the software providers to ensure that all legal and compliance measures are in place, while also mitigating the risk and reducing the personal data transferred.</p>
13. Uses relevant information	An in-depth audit on the Office's retention policy highlighted that, while the policy is extensive and well-applied as regards the document management system, it does not cover all of the tools currently in use at the Office.

An action plan has been drafted and launched already to ensure consistent application of the retention policy across all systems and areas.

Combined with the assessment and identification of deficiencies and opportunities for improvement, the Office has also identified best practices and strengths of its internal control system, such as the:

- continual improvement of cyber security;
- integration of sustainability reporting into the corporate reporting mechanisms of the Office;
- publicly accessible Transparency Portal;
- strong performance and risk-based approach to management deeply embedded in the organisational culture;
- implementation of various cross-departmental networks on specific topics.

The robustness and efficacy of the BCP and the control and monitoring mechanisms ensured the uninterrupted and efficient working of the Office during the COVID-19 pandemic, with great effort demonstrated in managing risks, early identification of changes and implementation of additional policies and controls. Both internal and external communication channels were also reinforced, with the creation of specific channels to disseminate information on the status of the situation and the implementation of any change.

4.2 Review of the elements supporting assurance

The review of the elements supporting assurance was based on systematic analysis of the evidence available, as outlined in this report and in particular under sections on the following issues: resource management; audit, internal controls and anti-fraud strategy and the final annual accounts for the year. This approach provided sufficient guarantees for the completeness and reliability of the information reported.

The measures in place to ensure legality and regulatory compliance are, in particular:

- the performance, quality and risk management systems;
- *ex ante* verification;
- the *ex post* evaluations;
- the systematic registration and follow-up of exceptions as well as the quantitative and qualitative nature of the exceptions;
- the system for the delegation of powers of the authorising officer embedded in the Office's financial management system;
- the network of administrative and financial officers;
- the ERMS;
- risk assessment and the opinions expressed in the final reports by internal and external auditors;
- the results of the self-assessment on the effectiveness and efficiency of the internal control system carried out at departmental and organisational level

In light of these measures, it can be concluded that the Office's internal control systems are appropriate and provide reasonable assurance, the implementation of the revised ICF adopted in 2018 was satisfactory and the five components included in it are present and functioning.

4.3 Overall conclusions on assurance and reservations

The ED and the authorising officers by delegation gave reasonable assurance that, overall, suitable controls were in place and working as intended, risks were being monitored and mitigated appropriately and necessary improvements and reinforcements were being implemented. The ED, as authorising officer, signed the Declaration of Assurance.

4.4 Declaration of assurance

I, the undersigned, Executive Director of the European Union Intellectual Property Office,

In my capacity as authorising officer,

Declare that the information contained in this report gives a true and fair view.

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees on the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, *ex ante* and *ex post* controls, the work of the Internal Audit Service, the lessons learned from the reports of the Court of Auditors for the years prior to the year of this declaration.

Confirm that I am not aware of anything not reported here that could harm the interests of the Office.

Alicante, 11 of May 2021



Christian Archambeau
Executive Director

4.5 Statement of the Head of Service in charge of risk management and internal control

I, the undersigned, in my capacity as Head of Service in charge of risk management and internal control, declare that, in accordance with the internal control framework adopted by the Budget Committee (BC-18-06), I have reported my advice and recommendations on the overall state of internal control in the Office to the Executive Director.

I hereby certify that the information provided in the present Annual Activity Report and in its

annexes is, to the best of my knowledge, accurate, complete and reliable.

Alicante, 11 of May 2021

A handwritten signature in blue ink, consisting of two large, stylized loops followed by a horizontal line and a diagonal stroke.

Jaime Cos Codina

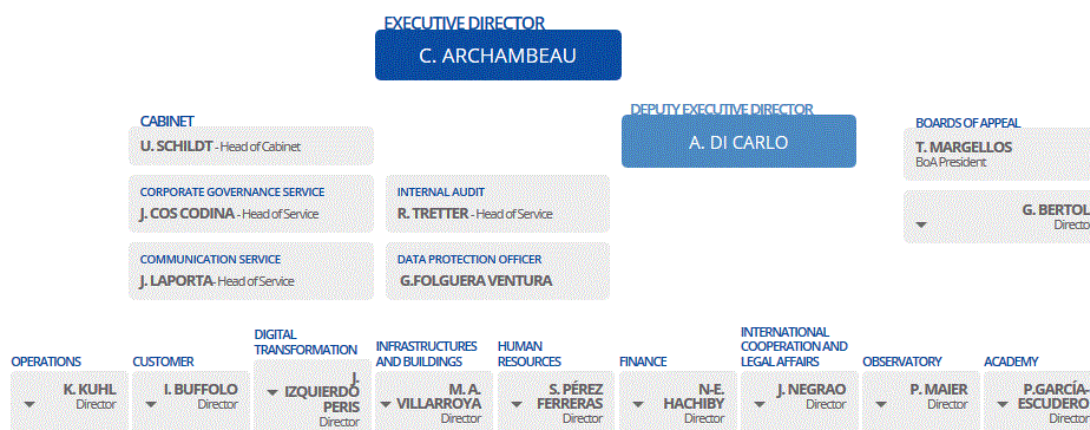
APPENDIX C- Mission Statement and Organisational Chart

The Office’s mission is to administer and promote the EU trade mark and design systems. To do so, the Office carries out examination, registration, opposition and cancellation procedures for EUTMs and examination, registration and invalidity procedures for RCDs. All decisions adversely affecting a party to a proceeding can be appealed before the Office’s Boards of Appeal.

The Office is also responsible for promoting the convergence of practices and tools in the fields of trade marks and designs. To do so, it cooperates with the central industrial property offices of the Member States (including the Benelux Office for Intellectual Property) and other institutions, authorities, industrial property offices and international organisations.

The Observatory’s mission is to increase public understanding of intellectual property rights and their infringement. It does this through economic studies, awareness-raising events and educational projects, as well as by managing the EU database on orphan works and a public single online portal for out-of-commerce works.

Organisational chart



APPENDIX D – Corporate Risk Register

RISK ID (risk raised)	RISK DESCRIPTION	RISK TYPE	EXISTING CONTROLS OR ACTIONS ALREADY TAKEN	RESIDUAL RISK LEVEL Impact (I) Likelihood (L)	RISK RESPONSE Avoid / Transfer / Reduce / Accept(watch)	ACTION PLAN SUMMARY Additional (ongoing) actions to mitigate risk
EUIPO_50 (Q2 2018)	<p>Cyber-attacks to access restricted information or to disrupt Office services.</p> <p>The growth of the EUIPO's business, with the corresponding increase in its digital footprint, coupled with a worldwide increase in 'cyber-attacks', raises the possibility of suffering 'cyber-attacks' aimed at gaining access to information or at disrupting the EUIPO's services.</p>	Safeguarding of assets, information and staff	<p>Staff awareness activities on information security organised regularly.</p> <p>Mechanisms in place to prevent attacks.</p> <p>Improved perimeter security systems for automated attacks.</p> <p>Improved network infrastructure and data leak protection.</p> <p>Implementation of information security hardware and infrastructure.</p> <p>The Network Admission Control (NAC) initiative ensures that only safe devices from external companies are allowed to connect.</p>	<p>20 I (4) L (5)</p>	Reduce	<ul style="list-style-type: none"> • Continuous review of IT security procedures, conducting simulations and social engineering tests. • Implementation of quarterly vulnerability scans and penetration tests of EUIPO security perimeter, monthly vulnerability scans of servers. • Implementation of a new policy of regular securing of servers to industry-approved standards, as well as implementation of a first cycle of server patching and new firewall hardware are ongoing. • Strategic project on integration and expansion of IT security has been launched to deploy cyber-intelligence tools, automate threat detection, analyse data traffic and implement an intent-based network.
EUIPO_03 (Q2 2014)	<p>Unsolicited misleading invoices received by EUIPO users.</p> <p>When users file applications in relation to trade marks or designs they systematically receive fraudulent/misleading invoices. If these schemes continue, they could damage the EUIPO's reputation.</p>	Safeguarding of assets, information and staff	<p>Distribution of information to users.</p> <p>IT investigations.</p> <p>EUIPO anti-fraud strategy.</p> <p>Legal action against fraudsters.</p> <p>Cooperation with National IP Offices,</p>	<p>16 I (4) L (4)</p>	Reduce	<ul style="list-style-type: none"> • Continue ongoing activities, intensify information to users, User Associations and National IP Offices. • New electronic communication tool (eComm) to phase out the remainder of the postal and fax-based communication with clients. Rollout of all e-replies and

Risk ID (risk raised)	RISK DESCRIPTION	RISK TYPE	EXISTING CONTROLS OR ACTIONS ALREADY TAKEN	RESIDUAL RISK LEVEL Impact (I) Likelihood (L)	RISK RESPONSE Avoid / Transfer / Reduce / Accept(watch)	ACTION PLAN SUMMARY Additional (ongoing) actions to mitigate risk
			Europol and the European Commission. Knowledge Circle on Enforcement. Anti-scam working group. Collaboration with Europol: weekly reports sent to Europol; Service Level Agreement for 2020-2025 signed in Q3 2019, including production of a strategic report on the impact of misleading invoices delivered in Q4 2020. Anti-Scam Network regular meetings comprising National IP Offices, User Associations, WIPO, EPO, Europol and Eurojust.			introduction of a new e-action to replace fax as a backup. • Ongoing enforcement of the EUIPO's IP rights against infringers who use similar names or logos but do not fall foul of national laws on fraud.
EUIPO_57 (Q1 2020)	<p>Uncertainty caused by the COVID-19 pandemic, its possible successive waves of infection and its impact.</p> <p>This represents an overall risk for EUIPO staff.</p> <p>First, the risk of the spread of COVID-19 among campus users remains present.</p> <p>Second, the crisis impacts the economy and affects the proceedings and workflows of the Office and its stakeholders. This could translate into fluctuations in numbers of filings and revenue for the Office. This instability will demand flexibility from the Office to adapt its operations</p>	Corporate	Regular meetings of the Monitoring Committee composed of members of top management in order to closely follow the situation, in consultation with the relevant bodies and authorities. Regular meetings of the Health, Safety and Environment Committee (HSEC) to monitor the evolution of the outbreak, provide technical advice to EUIPO management and report to the Monitoring Committee. Implementation of	15 I (3) L (5)	Reduce	<ul style="list-style-type: none"> • Rigorous health and safety measures maintained by the Office to guarantee staff health and well-being. • Regular communication to campus users on good practices regarding masks, social distancing and hygiene. • Quarterly external audit on 'Certification for protocols against COVID-19' and full compliance with the protocols, including for the catering services on campus ('UNE 0066-5 - Measures for reducing

Risk ID (risk raised)	RISK DESCRIPTION	RISK TYPE	EXISTING CONTROLS OR ACTIONS ALREADY TAKEN	RESIDUAL RISK LEVEL Impact (I) Likelihood (L)	RISK RESPONSE Avoid / Transfer / Reduce / Accept(watch)	ACTION PLAN SUMMARY Additional (ongoing) actions to mitigate risk
	<p>and activities to changing priorities which may in turn impact its results.</p>		<p>measures to ensure safety and wellbeing of staff by providing flexibility when necessary.</p> <p>Close monitoring of potential cases by the Human Resources Department and the Medical Service.</p> <p>Close collaboration with relevant bodies and authorities.</p> <p>Implementation of three scenarios and corresponding action plan depending on the development of the outbreak.</p> <p>Daily monitoring of Office activities (regular monitoring of EUTM and RCD filings, incomes, etc.).</p> <p>Regular communication updates to staff and stakeholders.</p> <p>Protocols and guidelines in place to ensure legal compliance on campus, including disinfection and ventilation.</p> <p>Specific assessment of occupational risks associated with the pandemic.</p> <p>Regular health and safety internal and external audits, ensuring full compliance with</p>			<p>SARS-CoV-2 contagion').</p> <ul style="list-style-type: none"> • <i>Prospective successful audit on 'Verification of COVID-19 disinfection protocols'.</i> • <i>Flexible measures in the staff policy (teleworking, holiday requests, allowances, etc.).</i> • <i>In-situ events, visitors and participation in external physical events were banned during the 'State of Alarm' periods throughout the year and have taken place virtually as much as possible.</i> • <i>Management Board and Budget Committee meeting held virtually with very positive feedback received from the stakeholders. They praised not only the smooth organisation of the meeting but also the measures implemented by the Office to ensure continuity, and especially the good performance of the EUIPO staff.</i> • <i>The EUIPO experienced recovery in the number of filings as of mid-May. Originally the increased workload was a result of the two-month time limit extensions granted to parties to EUTM and</i>

Risk ID (risk raised)	Risk Description	Risk Type	Existing Controls or Actions Already Taken	Residual Risk Level Impact (I) Likelihood (L)	Risk Response Avoid / Transfer / Reduce / Accept(watch)	Action Plan Summary Additional (ongoing) actions to mitigate risk
			<p>'Certification for protocols against COVID-19' on campus.</p> <p>Adaptation of existing contracts with service providers to exceptional circumstances.</p> <p>PCR tests to measure SARS-CoV-2 levels in waste water, the air and air ducts.</p>			<p>RCD proceedings until 18 May 2020. As of June 2020, the filings are above last year's level and above the initial yearly forecast for 2020.</p> <ul style="list-style-type: none"> As of 7 September 2020, staff, trainees and seconded national experts began to work by default at the Office campus in accordance with the EUIPO Return Plan, combined with an extended teleworking quota and more flexible conditions. The EUIPO volunteered to become a vaccination centre to offer easier access to vaccines for its staff and their families.
EUIPO_55 (Q4 2019)	<p>Privacy and data protection concerns related to the outcome of the European Data Protection Supervisor (EDPS) investigation of Microsoft Cloud services ⁽¹⁾.</p> <p>The EDPS investigation identified the use of Microsoft Online services as a high risk to individuals, and outlined 37 recommendations of mandatory implementation to ensure compliance with the EUDPR (EU Data Protection Regulation).</p> <p>Most of the recommendations made by the EDPS are for the Commission, while 15 of these recommendations are reliant on</p>	Strategic / Compliance with laws and regulations / Safeguarding of assets, information and staff	<p>Continuous review of Office 365 tools configuration to minimise discrepancies with EDPS policies, deployment of newer versions of Windows and Office 365 with limited telemetry data collection.</p> <p>Deployment of Office 365 administrative tools to minimise the collection of telemetry and diagnostic data.</p> <p>Monitoring of Office 365 tools logs.</p>	15 I (5) L (3)	Reduce	<ul style="list-style-type: none"> Prepare a Data Protection Impact Assessment (DPIA) to adapt the Commission's DPIA to the EUIPO's needs and identify any additional actions. Enhance the current procedure for monitoring and assessment of new product updates and functionalities, with possible involvement of Microsoft and the EUIPO's Data Protection Office (DPO).

(1) More information can be found in the [Outcome of the EDPS investigation](https://edps.europa.eu/sites/edp/files/publication/20-07-02_edps_euis_microsoft_contract_investigation_en.html) (https://edps.europa.eu/sites/edp/files/publication/20-07-02_edps_euis_microsoft_contract_investigation_en.html) and in the [EDPS press release](https://edps.europa.eu/press-publications/press-news/press-releases/2019/edps-investigates-contractual-agreements_en) (https://edps.europa.eu/press-publications/press-news/press-releases/2019/edps-investigates-contractual-agreements_en).

Risk ID (risk raised)	RISK DESCRIPTION	RISK TYPE	EXISTING CONTROLS OR ACTIONS ALREADY TAKEN	RESIDUAL RISK LEVEL Impact (I) Likelihood (L)	RISK RESPONSE Avoid / Transfer / Reduce / Accept(watch)	ACTION PLAN SUMMARY Additional (ongoing) actions to mitigate risk
	<p>the EUIPO and will require significant time and effort to implement.</p>		<p>Awareness campaign launched to inform users on the use of Office 365 including information on data protection.</p>			<ul style="list-style-type: none"> Access to new functionalities or tools only to be granted by default following the assessment and, if needed, review and update of the relevant process cards/work instructions/guidelines.
<p>EUIPO_58 (Q1 2020)</p>	<p>Risk of breach of confidentiality, integrity and availability of sensitive information inherent to the use of Zoom software for remote conferencing.</p> <p>Zoom is an online events solution that provides multilingual videoconferencing. This solution was chosen by the EUIPO during the business continuity scenario launched as a consequence of the COVID-19 pandemic. Prior to the extended use of this tool in the Office, a Privacy and Security Assessment was carried out by the EUIPO's Data Protection Office (DPO), which was approved on 20/03/2020.</p> <p>Zoom is classified as CONFIDENTIAL in terms of information to be managed and CRITICAL in terms of its integrity and availability.</p> <p>The risk has been assessed by the EUIPO's DPO as MEDIUM, on the basis of the analysis of the privacy and security measures and the safeguards for the data subjects' rights and freedoms provided by Zoom.</p>	<p>Reputational / Strategic / Safeguarding assets, information and staff</p>	<p>The EUIPO's DPO prepared a specific Privacy Statement for participants in videoconference meetings organised by the EUIPO through Zoom. A Data Protection Record and a Data Protection Impact Assessment are also in place.</p> <p>A Zoom user manual has been created by the EUIPO.</p> <p>Conditions of use of Zoom were prepared in consultation with EUIPO Legal Services.</p> <p>The EUIPO's DPO collected Zoom's 'Security and Privacy measures for external storage' for the Privacy and Security Assessment in March 2020 and is constantly monitoring the developments as regards Zoom's data protection measures⁽²⁾.</p>	<p>15 I (5) L (3)</p>	<p>Reduce</p>	<ul style="list-style-type: none"> Closely monitor the evolution of Zoom and continuously request proof of its compliance with EUDPR. Validate flows of data and analysis of traffic, and verify requests for disclosure of information. Re-assess the situation regularly and consider issuing an updated assessment paper. Use Zoom in specific events with external stakeholders and when justified by necessity. Use other available solutions where possible.

⁽²⁾ Monitoring is ongoing based on the information available in [Zoom Privacy Policy](https://zoom.us/privacy) (https://zoom.us/privacy) and [Zoom Video Communications Data Processing Addendum](https://zoom.us/docs/doc/Zoom_GLOBAL_DPA_December_19.pdf) (https://zoom.us/docs/doc/Zoom_GLOBAL_DPA_December_19.pdf).

Risk ID (risk raised)	Risk Description	Risk Type	Existing Controls or actions already taken	Residual Risk Level Impact (I) Likelihood (L)	Risk Response Avoid / Transfer / Reduce / Accept(watch)	Action Plan Summary Additional (ongoing) actions to mitigate risk
	<p>The information managed is very sensitive from a business perspective and inappropriate management could have a direct impact on individuals and the reputation of the EUIPO.</p>		<p>The Data Protection Addendum (DPA) has been signed by Zoom, including the data protection clauses of the EUIPO's general terms and conditions.</p> <p>The tool was configured to ensure data protection to the extent technically possible.</p> <p>The retention period of the data has been established. It is kept for one month in the Zoom database and its deletion is automated.</p>			

Appendix E.

European Observatory on Infringements of Intellectual Property Rights Annual Activity Report 2020

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- 2 The Observatory and the EUIPO
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- 13 Communication
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Annex — Budget Execution in 2020

1. Executive Director's Introduction

The European Observatory on Infringements of Intellectual Property Rights continued to develop during 2020. As well as representatives from all the EU Member States, the Observatory network brings together the private sector, civil society, MEPs designated by the European Parliament, and European and international organisations and agencies.

The 2020 Work Programme was the final year of the Multiannual Work Plan 2014-2018, which was extended until 2020 to synchronise the Observatory's planning with that of the EUIPO. The EUIPO's new Strategic Plan 2025 came into force in July 2020 and includes several high-level initiatives that are related to the Observatory's work, such as working with intermediaries, artificial intelligence (AI) and technology and SMEs. As an integral part of the EUIPO, the Observatory contributes to the Strategic Plan's implementation.

As shown by the 2019 IP Contribution Study, published in partnership with the European Patent Office (EPO), the economic importance of intellectual property rights (IPRs) to jobs, gross domestic product (GDP) and trade in the EU has become even greater in recent years. The economic and other studies carried out by the Observatory aim to address a trilogy of themes: to quantify the importance of IPRs to the economy; to map what the European public and small and medium-sized enterprises (SMEs) think and know about IPRs; and to quantify the extent of IPR infringement and its consequences for the economy and society.

During 2020, the EUIPO continued its collaboration with the Organisation for Economic Cooperation and Development (OECD) by publishing a study of counterfeit medicines in March 2020, at a time when this particular sector was under intense media spotlight due to the COVID-19 pandemic. The EUIPO participates actively in the leadership of OECD's Task Force on Countering Illicit Trade, now an official body within the OECD.

In June 2020, the third Status Report on IP Infringement was published. As in previous years, the report drew together the Observatory and its partners' research findings, illustrating the economic importance of intellectual property, the economic costs of IPR infringement, the methods and channels by which these rights are infringed, and the actions being taken in response to these infringements. This edition of the report had a particular focus on the health and safety consequences of IPR infringement and on the links between IP crime and other types of crime.

The research conducted by the Observatory with partners such as the European Union Agency for Law Enforcement Cooperation (Europol), shows that the idea that IP crime is a victimless crime is wrong and that IP crime is dangerous and seriously damages the economic and societal interests of the European Union. Therefore, the Observatory, together with its stakeholders, is engaged in efforts to prove the importance of IP crime and the need for it to be included as a priority for law enforcement in the next European Multidisciplinary Platform against Criminal Threats (EMPACT) policy cycle, running from 2022 to 2025.

2020 also saw a continued focus on awareness-raising activities, in particular through IP in Education. A meeting of the IP in Education Network was held online in May 2020 and endorsed the dissemination strategy and priorities for the coming years.

Successful pan-European media campaigns were carried out, especially in connection with the release of the status report on 10 June, World Anti-Counterfeiting Day. The European online content portal, *agorateka*, contained information from 31 national portals covering more than 2 300 legal offer sites at the end of the year.

On the wider international stage, the EUIPO cooperates closely with the European Commission and EU enforcement agencies to ensure close alignment with broader EU policies and priorities in the field of IP. To strengthen the fight against counterfeiting and piracy, in 2016, Europol created the Intellectual Property Crime Coordinated Coalition (IPC3), which operates within Europol, with support from the EUIPO. Intensive cooperation is also ongoing with the European Union Agency for Law Enforcement Training (CEPOL) and with Eurojust.

Almost all the institutional meetings, trainings, seminars and other knowledge-sharing activities were held online during 2020 due to the COVID-19 pandemic. The EUIPO's staff shifted overnight to teleworking from mid-March until September. Despite these special working conditions, most of the Observatory's 2020 Work Programme was successfully completed. To counter the threat of counterfeit COVID-19-related products, the EUIPO began cooperating with Europol, the European Anti-Fraud Office (OLAF) and the European Commission on specific knowledge-sharing and other support for enforcers, in collaboration with the private sector, in particular the pharmaceutical industry.

Christian Archambeau
Executive Director, EUIPO

2. The Observatory and the EUIPO

The EUIPO's Observatory Department constitutes the secretariat of the European Observatory on Infringements of Intellectual Property Rights. This consists of the Operations and Projects Area, led by a Deputy Director and including the Enforcement and SMEs and IP in the Digital World and Awareness services, and the service of the EUIPO's Chief Economist.

As well as representatives from the 27 Member States, at the end of 2020, the Observatory network included 69 representatives from the private sector, 5 organisations representing civil society, 14 European and international organisations that act as observers, and 5 MEPs designated by the European Parliament, who follow its activities.

Private sector representatives include a broad and balanced range of EU and international bodies representing the various economic sectors, including the creative industries most involved, or experienced, in the fight against IPR infringement. Consumer organisations, SMEs, authors and other creators are also represented. Therefore, the EUIPO complies with the requirement of proper representation in the Observatory of all the private sector representatives mentioned in Article 4(2) of Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights.

A full list of members of the network is available on the Observatory website:

<https://euipo.europa.eu/ohimportal/en/web/observatory/observatory-network>

The Observatory has a published set of criteria for private sector stakeholders, designed to ensure that it can benefit from a broad range of expertise, while ensuring that only organisations directly interested in its work participate (see Box 1).

Box 1 — Criteria for the Observatory’s new private stakeholders

- Pan-European associations or international organisations.
- Registered in the [EU Transparency Register](#).
- Not individual corporations.
- Affected by counterfeiting or piracy and/or active in enforcement.
- Able to represent civil society/consumers or companies/authors/creators within their specific sectors.
- Able to provide key information about a particular sector, including statistical data in compliance with [Article 5\(2\)\(b\) of Regulation \(EU\) No 386/2012](#).

In 2020, three stakeholders - European Digital Rights, Wikimedia and BEUC - decided to leave the Observatory. In expressing its regrets over this decision, the EUIPO also expressed its wish that these organisations remain engaged with the Observatory, for example, through participation in selected meetings and events. To ensure that the Observatory network represents a wide range of perspectives, additional civil society organisations are encouraged to become stakeholders.

The Observatory’s representatives collaborate in working groups that correspond to a number of different subjects. The members of these groups provide valuable feedback and support for the Observatory’s projects, so that expert advice from all sectors involved can be taken on board.

There are currently the four working groups:

- Enforcement;
- IP in the Digital World;
- Public Awareness;
- Economics and Statistics.

The working groups usually meet twice a year, in spring and in autumn.

In recent years, a number of new activities that transcend the existing working groups have been taken on board, such as the activities in support of the European Commission’s SME initiatives, cooperation with intermediaries, or the need to monitor new technologies. In addition, now that the foundations have been laid through various studies and tools, the focus of the Observatory is shifting towards more specific activities such as IP in Education or

International Cooperation, while, of course, still complying with the framework laid down by Regulation (EU) No 386/2012.

Therefore, from 2019, the former Legal and International working group, and the new subjects mentioned above, have been arranged into six focused expert groups in which experts in the specialised areas can provide their input and expertise to the Observatory's initiatives. In this way, the expert groups help guide the implementation of Observatory projects in specialised areas with direct input from experts who represent themselves rather than a particular organisation or institution.

The expert groups will exist for as long as they are required. Likewise, new expert groups can be created as needed.

The six current expert groups are:

- Observatory Outreach;
- Legal;
- Impact of Technology;
- Cooperation with Intermediaries;
- International Cooperation;
- SMEs (from July 2020, the responsibility for this group has moved to the EUIPO SME Programme).

The working groups could not meet in March as planned due to the COVID-19 situation. However, the autumn working groups meetings took place online between 20-22 October 2020.

The expert groups meet according to their respective work streams; all meetings from mid-March onwards took place online.

Observatory planning is embedded in the EUIPO Strategic Plan 2025 (SP2025) which entered into force on 1 July 2020.

The three main goals of the Observatory, as set out in Regulation (EU) 386/2012, are:

- to provide facts and evidence for use by policymakers in the formulation of effective IP policies;
- to create tools and resources to step up the fight against IP infringement;
- to raise awareness of IP and of the negative effects of counterfeiting and piracy.

The process followed by the Observatory to produce its reports and studies is based on the following principles:

- Observatory stakeholders should be involved in identifying the reports and studies to be undertaken, as well as in defining the scope and terms of references for the reports/studies identified;
- the reports/studies should be carried out in full, according to the agreed terms of reference and in an independent manner;
- Observatory stakeholders should be informed about the conclusions of the reports/studies in advance so they can provide comments;
- the rules governing the EUIPO, and particularly its decision-making processes, should be complied with.

In November 2020, the European Commission published the ‘Evaluation of the application of Regulation 386/2012’, as anticipated in that same regulation. The evaluation was based on an analysis of relevant documents, an external study carried out by a consultant, and a public consultation. Overall, the evaluation is positive and concludes that the EUIPO has met expectations in its hosting of the Observatory. The report concludes that the EUIPO has become a ‘hub of excellence’ and ‘an important contributor to the Commission’s initiatives’ and that the work of the Observatory has ‘substantially changed the landscape of IP enforcement in the EU.’

The evaluation also identifies areas for improvement, such as including additional stakeholders in the network; closer monitoring of the impact and efficiency of Observatory initiatives; earlier and more effective stakeholder consultation; international cooperation; more explicit links to relevant EU policies; more data collection (including case-law) from national authorities; greater adherence to published timelines for projects; and more user-friendly presentations of the studies on the Observatory website. Many of these suggestions have already been addressed, while others are in the process of being dealt with.

In the following sections, the activities carried out to support the three main goals of each of the working groups and expert groups are described in detail. This is supplemented with separate sections on tools, cooperation and communication activities.

Article 7(3) of Regulation No 386/2012 requires the representatives of the public administrations, bodies and organisations in the Member States to be duly consulted on the Annual Activity Report. The public stakeholders have been constantly informed and asked for their input on the work programme, and the results of the Observatory's work have been reported to them on a regular basis. The formal submission of the report under Article 7(3) took place in the Public Sector Stakeholders' meeting held online on 23 February 2021.

3. IP in the Digital World

The IP in the Digital World working group has produced studies in support of the first main goal of the Observatory, to provide facts and evidence for enforcers and policymakers. In addition, the Orphan Works Database was set up under a specific legal mandate, Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works, whereas Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market entrusted the EUIPO with building a European portal for out-of-commerce works. Finally, *agorateka*, the European online content portal, assists consumers in finding legitimate digital content and, in so doing, supports the third Observatory goal of raising awareness of IP.

- **agorateka — The European online content portal**

In September 2016, the EUIPO launched a portal in order to better inform consumers about the availability of legal offers within Europe in the realms of music, sport, films/TV, video games and books. [Agorateka — The European online content portal](#) provides a single access point for national portals leading consumers to legal offers. As of December 2020, 20 EU Member States were participating, as well as Switzerland and the UK. Altogether, more than 2 300 legal offer sites are accessible through the portal.

A meeting with the different content sector representatives took place in June 2020 to explore options for the development of *agorateka*. Stakeholders from all content fields confirmed their full endorsement of the portal in its first phase and also acknowledged the ambition and complexities of integrating a search functionality. Discussions on how to further develop the portal are under way.

- **Out-of-Commerce Works Database**

As provided for in Directive (EU) 2019/790 (on copyright and related rights), Article 10, the EUIPO is responsible for establishing and managing a single publicly accessible online portal for out-of-commerce works. The EUIPO has started development of the portal in cooperation with the European Commission and Member States, and with input from stakeholders. The portal should be available to the public by the date of transposition of the Directive into national legislation, which is 7 June 2021.

- **Studies**

Three studies were developed during 2020 with contributions from experts and stakeholders.

Dynamic blocking injunctions. Different requirements across the EU apply regarding the evidence required to obtain blocking orders. In 2019, with the help of Member States and stakeholders, a study with a special focus on forward-looking injunctions (e.g. dynamic injunctions) began. The study continued in 2020 with the identification of relevant case-law, with contributions from the Legal expert group. This study and case-law collection offers an overview of static and dynamic blocking injunctions in the EU and the Member States. It analyses the availability of these injunctions, their scope, technical implementation and their effectiveness in reducing infringement. The resulting report will be published in early 2021.

Cybersquatting. This study is part of a two-part project. Phase 1, which was concluded in 2019, consisted of doing market research on existing domain search tools in order to ascertain whether they would be able to perform the searches required for the quantitative part of the study. Phase 2 is the study itself, which has a threefold purpose:

- first, to demonstrate the extent of potential cybersquatting as experienced by selected existing rights holders;
- second, to analyse business models associated with cybersquatting;
- third, to show the breadth of the domain name spectrum and the cybersquatting problem in it, including in relation to new generic top-level domains.

The analysis was completed in 2020, and the report will be published in the first half of 2021.

Legislative measures. In 2020, work on the study on legislative measures related to online IPR infringement – International Judicial Cooperation in IP Cases – began. The purpose of this fact-based, descriptive study is to identify the legislative measures concerning international judicial cooperation that can be utilised in IP-infringement cases. The resulting report will be published in the first half of 2021.

- **Anti-counterfeiting infrastructure on blockchain.**

Following the organisation of the Blockathon in 2018 and its Forum in 2019, the Observatory launched a strategic project to build an infrastructure able to integrate existing track and trace solutions.

4. Public Awareness

The activities of the Public Awareness working group support the third main goal of the Observatory, to raise awareness of IP and of the negative effects of counterfeiting and piracy. Much of this work is based on the studies that are conducted by the Observatory in other areas, particularly Economics and Statistics and IP in the Digital World, but also specific awareness studies.

The Observatory released 10 reports in 2020, with executive summaries available in all EU languages. They have been disseminated on the internet, social media and the press, as well as to relevant institutional stakeholders.

- **Targeting youth**

Activities directed at young people to raise the visibility of IP and the damage caused by its infringement continued as part of the Ideas Powered initiative to develop an online dialogue in social media and build the engagement of the community.

Ideas Powered aims to bring IP closer to the younger generations, both online but also in places where young people gather. A workshop planned for June 2020 in Berlin was cancelled due to the COVID-19 pandemic and is currently planned for the summer of 2021.

The Ideas Powered social media channels in Facebook and Twitter have continued to grow, with 40 000 and 11 100 followers, respectively. An Instagram channel was set up in May 2018, and now has 10 000 followers, with an engagement rate of over 10 %. In addition, the Observatory makes use of the EUIPO's social media channels, which have 35 400 followers on Twitter, 45 000 on LinkedIn and 18 000 on Facebook. In 2020, the brand Ideas Powered was extended to the IP in Education programme (IdeasPowered@School) and to the EUIPO's SME Programme (Ideas Powered for business).

- **Support for awareness-raising activities in Member States**

In order to support awareness-raising activities in the Member States, the EUIPO provides support for public authorities' awareness initiatives by making use of the existing cooperation framework between the EUIPO and the national IP offices. A new call for proposals was launched in June 2019 and 13 projects were awarded a grant. All these projects have been

successfully implemented during 2020, although 9 of them had to modify their implementation plans due to the COVID-19 pandemic.

A European Cooperation Project, Authenticity, aimed at creating a network of European authentic cities, was established in 2019 with one of the grants awarded in 2016. Several cities, in collaboration with national IP offices, started pilots, including Alicante, Rome, Paris, Malaga and Milan. In 2020, Thessaloniki joined the project, as well as Plovdiv and Sofia, and several other cities are considering joining in the coming years.

In 2020, the estimated support given to awareness activities carried out in Member States, through cooperation with national IP offices, amounted to EUR 909 000.

- **IP Perception study**

The third edition of the IP Perception study was published in November 2020. This is one of the Observatory's 'foundation studies', first published in 2013 and updated in 2017. In total, 25 636 interviews were conducted with EU residents aged 15 and above in all EU Member States. The study aims to gather knowledge on Europeans' attitudes towards IP, the degree to which they respect these rights, and the concept that they have of IP as a whole. This edition of the study shows a gradual and encouraging change in understanding of and attitudes towards IP compared with the earlier surveys.

- **IP in Education**

One of the IP Perception study's findings was that a significant number of young Europeans had tolerant attitudes towards counterfeiting or copyright infringement. At the same time, education was identified as an appropriate channel to raise awareness about the importance of respecting IP. Therefore, raising pupils' awareness in schools, by showing how they could reap the benefits of IP knowledge in their private and future professional lives, has become a priority.

The IP in Education Network met online in November 2020. At this meeting, the dissemination plan was endorsed. New partners were identified, and the development of Frequently Asked Questions on copyright was initiated for teachers. In addition, an approach to extending IP in

Education to tertiary education is being developed. The Council on digital education in Europe's knowledge societies adopted conclusions on 30 November 2020, which acknowledged the contribution of the Intellectual Property in Education Network managed by the EUIPO. This political endorsement will strengthen the momentum of the network's work to integrate IP into national curricula through the provision of digital resources, materials, training and events, translating the ambition mentioned during the meeting's conclusions into practice.

5. Enforcement

The activities under this heading support the second main goal of the Observatory, to provide tools and databases for use in enforcement, and to carry out knowledge-building activities for enforcers and other stakeholders. Many of these activities are carried out jointly with Europol, Eurojust, the European Union Agency for Law Enforcement Training (CEPOL), as well as European Commission services, in particular the Taxation and Customs Union Directorate-General (DG TAXUD) and the European Anti-Fraud Office (OLAF).

- **Data collection, analysis, reporting**

In December 2020, the Observatory published a [Report on the EU internal market enforcement of intellectual property rights](#). Following the publication in 2019 of the trend report on enforcement of IPRs at EU borders and in Member States with the results from 2013-2017, this new yearly report was produced from an analysis of the data on detentions within national markets reported through the IP Enforcement Portal by 25 Member States' enforcement authorities during 2019.

Despite the large reduction in the number of items detained, the estimated value of the reported items detained in the EU internal market remained almost unchanged in 2019 (EUR 1.8 billion) compared to 2018, indicating that law enforcement made fewer but higher value detentions in 2019 compared with the previous year.

In June 2020, Europol and the EUIPO released a [joint case book](#) focusing on cases where IP crime was linked to other serious crimes. The case examples presented in this report illustrate how a wide range of different crimes are linked to intellectual property crime, including money laundering, document fraud, cybercrime, fraud, drug production and trafficking. The cases show that the idea that IP crime is a victimless crime is wrong, and that IP crime is dangerous and seriously damages the economic and societal interests of the EU. This is one of the Observatory's (and its stakeholders') efforts to highlight the importance of IP crime and the need for it to be included as a law enforcement priority in the next EMPACT policy cycle (see below).

- **Link between counterfeits and unsafe goods**

Following up on the work done on the risks posed by counterfeits, the Observatory has been working together with the Directorate-General for Justice and Consumers (DG JUST) on the links between unsafe and counterfeit goods. Work on a pilot testing activity under the DG JUST's Coordinated Activities for the Safety of Products (CASP) framework in 2021 was initiated in 2020. In addition, an awareness and training initiative has been launched to involve market surveillance authorities in the use of the IP Enforcement Portal.

- **EMPACT priorities**

In 2021, the Council of the EU will decide on the law enforcement priorities for the forthcoming cycle (2022-2025) of the EMPACT. In the first EMPACT policy cycle (2014-2017) one of the priorities was 'to disrupt the organised crime groups involved in the production and distribution of counterfeit goods violating health, safety and food regulations and those producing substandard goods.' However, in the current 2018-2021 EMPACT, IP crime is no longer included among its priorities, only the mention of implementing measures on 'online trade in illicit goods and services, including counterfeit goods'.

There is growing evidence of the involvement of organised crime groups in IP rights infringement and of the link between IP crime and other crimes such as drug trafficking, traditional cybercrime, fraud and money laundering.

Therefore, the EUIPO, in cooperation with the Member States and Observatory stakeholders, worked during 2020 to promote the objective that IP crime should be recognised as an EMPACT priority in its own right, an effort that will continue in 2021.

- **EUIPO-Europol Grant Agreement**

Since the first EUIPO-Europol Grant Agreement was signed in 2016, the EUIPO has been funding Europol's IP Crime Coordinated Coalition (IPC3) with yearly grants. Thanks to the increased support provided by the EUIPO, the IPC3 was able to further intensify its operational work, which has resulted in a number of successful operations being carried out by national law enforcement authorities in coordination with Europol. Examples include the global operation against illegal pesticides (Silver Axe) in June 2020; the Opson IX operation against

food fraud in July 2020; operations targeting copyright infringement such as illegal Internet Protocol television (IPTV) distribution in Bulgaria (February 2020) or the dismantling of a global online piracy network in August 2020. Operation Pangea against fake medical products in March 2020 had particular relevance in light of the COVID-19 pandemic.

A new agreement between the EUIPO and Europol was signed in November 2019 and came into effect in January 2020. This agreement provides continued cooperation with IPC3 for another 4 years.

- **Knowledge building for enforcers**

As in previous years, a number of initiatives in the area of knowledge building for enforcers were undertaken in 2020. Due to the COVID-19 pandemic, some events were postponed until 2021, but the majority were held online, resulting in greater participation than in similar presentational events, but with a loss of the networking activities that are an important part of these events.

Three judges' seminars were held during 2020:

- A seminar on trade marks in April;
- A seminar on new forms of trade marks in June;
- A webinar on the impact of COVID-19 on IPR infringement in October.

Furthermore, a course on counterfeiting and dangerous goods was held in November, jointly organised with CEPOL, and a regional seminar on international cooperation was organised together with Norwegian authorities in December 2020.

During the COVID-19 crisis, Europol and OLAF reacted against the counterfeiting of COVID-related products. The Observatory adopted a series of measures to help enforcers and rights holders to exchange relevant information through the use of the IP Enforcement Portal, and organised a joint activity with OLAF on falsified certificates. An awareness session on COVID-19 vaccines was organised jointly with Europol and OLAF as well as DG TAXUD on 17 December.

This session was a pre-operational training activity for enforcers, focusing on COVID-19. Representatives of pharmaceutical companies provided advice and intelligence to law

enforcement authorities to help them tackle counterfeit vaccines and other COVID-related counterfeits. This event was the first of a series of similar training events that the Observatory and its institutional partners (the European Commission, OLAF and Europol) will organise for law enforcement authorities during the first quarter of 2021.

- **European Intellectual Property Prosecutors Network**

The establishment of a European Intellectual Property Prosecutors Network (EIPPN) was the first concrete result of the enhanced cooperation between the EUIPO and Eurojust. Strengthening cooperation between the EUIPO and Eurojust will further facilitate development of specific cooperation projects in the future to support European prosecutors. The establishment of the EIPPN has already made cooperation between European prosecutors easier, and the intention is to strengthen the cooperation further on international, EU and regional levels.

The sixth meeting of the EIPPN, co-hosted by the EUIPO and Eurojust, took place on 19 May 2020. The meeting focused on international judicial cooperation, IPTV crime investigations and four comprehensive IP crime case studies, produced in cooperation with the UN Interregional Crime and Justice Research Institute (UNICRI), were presented.

Altogether, 14 such case studies covering all phases of successful criminal cases (from investigation to final court decision) have been prepared since 2017 in cooperation with the UNICRI, three of which were completed during 2020.

6. Economics and Statistics

The activities in the Economics and Statistics area consist principally of studies and analyses that support the first main goal of the Observatory, to provide facts and evidence to support policy formulation and public awareness efforts.

- **Quantification of infringement**

A set of studies, quantifying the economic costs of IP infringement, was begun in 2014. These studies aim to assess the magnitude of counterfeiting and piracy within the EU. So far, the Observatory has published 11 sectorial studies. In 2020, all previous studies were updated using more recent data (Eurostat data for 2017 and updated Eurobarometer surveys). The updated figures were included in the [Status Report on IP Infringement](#) published in June 2020.

Cooperation between the EUIPO and the OECD continued in 2020 under the memorandum of understanding (MoU) signed in June 2017 until the end of the first quarter of 2021. A [study on counterfeit pharmaceuticals](#) was published in March 2020, and another, examining the misuse of container shipping to transport counterfeit goods, was prepared during 2020 for publication in early 2021.

- **Quantification of digital infringement**

In 2020, following the study on trends in access to pirated music, film and TV series (published in 2019) the EUIPO analysed the title-level data for 2018 to carry out an in-depth analysis of the pattern of piracy in the EU Member States. The [resulting study](#), published in December 2020, is based on an analysis of the 30 most frequently pirated creative works in each Member State. The study found that piracy mainly affects creative works that have been recently produced and released. TV series are the most frequently pirated creative works, but the relationship between piracy and the popularity of the corresponding legal content is more difficult to ascertain, which is also the case for music. The study also looks at the tastes of consumers of pirated content across the EU, finding a high degree of homogeneity among the Member States, especially for films.

- **Study on the use of open-source software**

Acting on a suggestion from civil society stakeholders, a survey of 1 364 firms engaged in software development and use across the EU was completed in December 2018. Following analysis of the data during 2019, the [resulting report](#) was published in June 2020.

The study analyses how companies in the European software sector make use of open-source software (OSS) licences. OSS is now an integral part of software firms' business models. By embedding OSS into their business models, firms may get strategic benefits related to the wider dissemination of software and a larger knowledge pool they can tap into. They are able to profit from their OSS involvement by combining it with other, proprietary services and products, complementing OSS. The report shows how informal and formal IP protection methods help firms to convert market opportunities associated with OSS into profitable business models.

- **Use of IPR bundles by EU firms**

This new study examined EU firms' simultaneous use of patents, trade marks and registered designs to protect their innovations. It was based on a sample of more than 63 000 companies across all Member States. The study shows that firms that use multiple IPRs account for a disproportionate share of employment and turnover among the firms in the sample. Larger firms tend to have more IPR bundles than SMEs. Patents are the right most frequently combined with other IPRs. The study also found significant differences in the bundling of IPRs across sectors of the economy, with firms in the manufacturing sector much more likely to bundle IPRs than those in the services sector. The [report](#) was published in September 2020.

- **Firm-level IP Contribution Study**

The 2019 IP Contribution Study found that industries that make above-average use of IPRs provided 29 % of the employment and 45 % of the GDP in the EU, and that these proportions had risen since the previous study in 2016. During 2020, a firm-level study was conducted in cooperation with the EPO. This study delves deeper into the role of IPRs by analysing a large representative sample of over 127 000 European firms in order to compare the economic performance of firms that own IPRs with those that do not. The present joint EPO/EUIPO study is an update of the 2015 EUIPO report, with improved data and methodology. In contrast with the earlier report, which was based on data from 12 Member States, this new study includes

data from companies in all 28 Member States. The work was carried out in 2020, and the [report](#) was published in early 2021.

- **Measurement of KPIs**

Since 2017, the Observatory has been assisting the European Commission in measuring the key performance indicators (KPIs) related to the MoU on the sale of counterfeit goods over the internet, signed in June 2016. The eighth set of measurements was carried out by rights holders and platforms from 15 May to 15 June 2020, and the ninth set of measurements was carried out from 15 November to 15 December 2020. The role of the Observatory was to be the trusted neutral party receiving the raw data from the parties to the MoU, to analyse it and send the results to the European Commission. They are subsequently presented to the signatories at a meeting hosted by the Commission, where analyses and conclusions are drawn. The dialogue between the brand owners and the internet sales platforms is viewed as constructive and beneficial by all parties to the MoU.

7. Observatory Outreach

This expert group works on the design of pan-European awareness campaigns and other activities based on the results of Observatory studies in cooperation with national IP offices and stakeholders.

Several successful media campaigns were carried out during 2020, particularly in connection with the launches of the joint study on counterfeit pharmaceutical products with the OECD in March and the IP Perception study in November.

On 10 June, World Anti-Counterfeiting Day, the 2020 edition of the pan-European media campaign was launched based on the publication of the status report on IPR infringement, as well as the report on poly-criminality jointly released with Europol. The campaign achieved significant reach in all Member States, in print, online and audiovisual media. A total of 1 033 clippings worth an average total of EUR 8.3 million was generated, covering all EU Member States, with one third of the coverage in tier-one media ⁽¹⁾.

In order to measure the relevance of the Observatory studies and reports for EU policymaking, a monitoring system has been set up which enables the EUIPO to identify when one of its studies is quoted in a policy document from the European Parliament, the Council or the European Commission. According to this system, by the end of December 2020, 260 documents had been published by the three EU institutions mentioning Observatory activities and reports, 83 of which were published during 2020.

⁽¹⁾ Tier-one media refers to the most well-known media publications and newspapers, usually with a national audience in the target country, or an international audience.

8. Legal

This expert group works on case-law, various studies related to legal matters, such as trade secrets and blocking orders, and supports the European Commission as required.

In 2020 work on the study on legislative measures related to online IPR infringement Phase 2 – International Judicial Cooperation in IP Cases – began. The purpose of this fact-based, descriptive study is to identify the legislative measures on international judicial cooperation that can be utilised in IP cases. The resulting report will be published in the first half of 2021.

The Legal expert group also contributed to the study of forward-looking injunctions carried out in the IP in the Digital World area, by helping to identify relevant case-law in the Member States.

9. Impact of Technology

This group works on identifying new technologies with the potential to impact (help) IPR protection by carrying out studies or launching initiatives to better understand these impacts.

In September 2020, the Observatory took a giant leap towards developing a mechanism for monitoring the impact of emerging and disruptive technologies with the publication of the [Intellectual Property Infringement and Enforcement Tech Watch Discussion Paper 2020](#). Prepared with the support of the expert group, the discussion paper considers the impact of these technologies in the future protection, infringement and enforcement of IPRs.

Another discussion paper, [Automated Content Recognition - Existing technologies and their impact on IP](#) was published in November 2020, with contributions from the Impact of Technology and Cooperation with Intermediaries expert groups. As a first step to understanding the impact of these technologies on intellectual property, the discussion paper describes the functioning of hashing, watermarking, fingerprinting or AI-based solutions, and their uses for content recognition. It explores the advantages and limitations of each of these technologies, as well as how they can be combined to optimise content recognition.

10. Cooperation with Intermediaries

This group works on collaboration with relevant intermediaries (such as e-commerce marketplaces) and voluntary collaboration practices in that field. It has initiated work on online platforms, domain names, social media and payments, with a view to identifying the challenges raised by the misuse of these services for IPR-infringing activities, and best practices to address these challenges.

As a follow-up to the work of the group on online platforms, and in line with the priorities identified together with the stakeholders, the EUIPO is developing an initiative intended to reduce counterfeiting and piracy. Specifically, the goal is to develop a secured and trusted system to provide European Union trade mark (EUTM) and registered Community design (RCD) owners with information on the IP protection programmes of various e-commerce platforms, to help facilitate access to these programmes as well as the exchange of information to support the removal of IP-infringing listings. As part of the drafting of a concrete EUIPO strategic project, an expert workshop with e-commerce marketplaces was held in February, and a workshop with rights owners in May. A project specifications group, bringing together representatives of e-commerce marketplaces and rights owners, was subsequently set up to discuss the practical details of how to implement the different phases of this strategic project.

11. Tools for the Enforcement of IPR

- **IP Enforcement Portal**

The [IP Enforcement Portal](#) (IPEP) was launched in June 2019, uniting the former Enforcement Database (EDB), the Anti-Counterfeiting Support Tool (ACIST) and the Anti-Counterfeiting Rapid Intelligence System (ACRIS) functions in a single platform. The new portal is an interactive, reliable and user-friendly tool for EU IPR enforcement, serving as a secure communication tool between all related parties.

During 2020, the portal was further developed in preparation for the launch of the full electronic management of the Application for Action (AFA) system in 2021, which will provide online facilities for the request, extension and full amendment cycle. Among the major changes is the integration of the portal in the customs access management system to enable any rights holder to access IPEP with the same credentials as those used for customs. In addition, the system has been adapted to the new AFA format defined by the Amending Implementing Regulation (EU) No 1352/2013 which established the forms provided for in Regulation (EU) No 608/2013 concerning customs enforcement of IPR.

IPEP's new 'Exchange Information' function (from the former EDB) is increasing its number of users. 2020 closed with more than 930 companies, the customs authorities of all Member States, and a growing number of police authorities (currently 39).

In terms of statistics, the new 'Report Detentions' function (from the former ACIST) now provides a unique collection of EU-wide data on internal market and border detentions, covering 1.1 million detentions since 2008. It covers both border detentions in all Member States and internal market detentions by authorities with *ex officio* competencies in all but two Member States.

Finally, a new feature has been added called the 'Report non-EU Cases' function (from the former ACRIS). As requested by the European Commission (the Directorate-General for Trade (DG TRADE)), a new system to securely exchange information and annexes between DG TRADE and the EU Delegations' networks has been developed.

The annual IP Enforcement Portal meeting, held online in December 2020, provided further opportunities to discuss the challenges of IP crime and how to tackle it with better tools.

Furthermore, the portal was placed at the disposal of the stakeholders to help exchange information on COVID-related products.

- **Technical Group on IP Enforcement and Data Exchange**

This technical group, created in 2017, brings together EU bodies that manage IPR-related databases (DG TAXUD, Europol, OLAF, the EUIPO) and those that use this data or are involved in IPR policy (the Customs Cooperation Working Party (CCWP), the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW), DG TRADE). The objective is to find ways to make data collection, analysis and exchange more effective in order to boost the fight against IPR infringement.

After the first feasibility analysis in 2019, the group proposed, in early 2020, three business cases that would increase the effectiveness of data exchange, moving towards a single key-in, common search model with dynamic dashboards for enforcers. These business cases could be developed during the coming years to improve the efficiency and increase the use of EU-level databases on IP enforcement. The first business case on a single key-in for the customs domain has been developed in coordination with OLAF to be presented to the 2021 High Level Meeting on IP Enforcement.

12. Cooperation Activities Including International Cooperation

For several years now, the EUIPO has been the implementing agency of the EU's cooperation projects initiated by the European Commission. Those programmes are co-financed by the EUIPO. The Observatory is now a full part of these programmes as, under Regulation No 386/2012 entrusting the EUIPO with the Observatory, the EUIPO is also tasked with encouraging international cooperation, in close alignment with broader EU policies and priorities in the field of IP.

In line with this principle, the EUIPO's engagement in EU-funded projects in third countries allows the Observatory to provide input on how to increase respect for IP and help European companies investing in these areas protect their IP rights.

The Observatory's international activities have focused on events with an IPR enforcement background and are aimed at consolidating cooperation and networking among enforcement authorities across the different regions covered by the EU-funded projects, such as IP Key in Asia and South America and ASEAN⁽²⁾ Regional Integration Support Programme+ (ARISE+). This involvement included providing external expertise to enforcement-related activities on an international scale.

A number of IP offices in third countries have expressed an interest in conducting IP Contribution studies for their economies. The Observatory is assisting these offices by providing information about the methodology, data and other aspects of the study. During 2020, assistance was provided to Mexico, Peru, Chile and Argentina. An IP Contribution study for Mexico was completed in 2020 and will be published in early March 2021.

As a result of the increased relevance of this international cooperation work, the EUIPO has created a new work stream supported by the formation of a specific expert group. During 2020, this expert group supported the EU-funded projects by providing proposals for enforcement-related activities to be implemented in 2021, to supplement the proposals provided by the Observatory's stakeholders.

⁽²⁾ Association of Southeast Asian Nations.

12.1 Cooperation with the European Commission and EU agencies

The Observatory's work during 2020 was assisted by a high level of cooperation with various services of the European Commission and with EU agencies and bodies.

The Observatory works closely with DG GROW to take advantage of synergies between their respective activities and to avoid duplication, with particular emphasis on supporting the needs of SMEs. The Observatory has continued to support the Commission's IP pre-diagnostic advice (IPDA) pilot programme through the hosting of an online experience exchange event in July 2020. The event brought together 40 IPDA experts from across Europe and provided them with a platform to share their experiences and opinions from the first year of the pilot programme. This exchange provided insights into how the service could be improved and developed for both the experts individually, as well as the programme as a whole.

The activities in support of SMEs have now been transferred to the EUIPO's SME Programme. The Observatory has continued to develop the initiatives initially started within the Observatory in the context of the overall programme. The Observatory is also contributing to the new Ideas Powered for business website and, in particular, to the development of the new Discover Guides tool that will support SMEs in identifying topics and information relevant to their business.

The EUIPO began to cooperate with Europol in the area of knowledge building in 2013 and with Eurojust in 2015. Many of the knowledge-building events and activities that are organised in cooperation with Europol and Eurojust also benefit from cooperation with CEPOL, the European police training college, as well as OLAF, the EU's Anti-Fraud Office.

Thanks to the support provided by the EUIPO, Europol's IPC3 unit was able to further intensify its operational work, which resulted in a number of successful operations being carried out by national law enforcement authorities in coordination with Europol.

The EUIPO continues to work with CEPOL on the development and promotion of the Virtual Training Centre on IPR for enforcement authorities. Two courses on IP training for customs and police officers (with 7-9 modules each) are being developed in cooperation with the European Commission (DG TAXUD/OLAF) and Europol, with contributions from national enforcement authorities. Once the content is finalised and the instructional design complete, they will be launched in 2021.

The Observatory provides support to DG TRADE in the preparation of the Counterfeit and Piracy Market Watch List. This watch list names both online and physical marketplaces that reportedly engage in or facilitate substantial IPR infringements, in particular by counterfeiting and piracy. It focuses on marketplaces located outside the EU and is intended to encourage operators, local enforcement agencies and governments to act against them. A further aim is to raise awareness among the public in the EU of the risks of purchasing from these marketplaces. To that end, the Observatory coordinated the involvement of Europol's IPC3 in the verification of illegal online pharma sites, e-commerce platforms offering counterfeit goods and sites offering pirated copyright content identified by DG TRADE. In addition, DG TRADE took advantage of the results of studies relevant to the Counterfeit and Piracy Market Watch List. The Commission published the Watch List in December 2020.

The EUIPO continues its cooperation with market surveillance authorities (MSAs) in charge of enforcing product safety regulations, and promotes cooperation in their Food Fraud Network meetings, managed by the Directorate-General for Health and Food Safety (DG SANTE) and in the Safety Gate/RAPEX meetings, managed by the Directorate-General for Justice and Consumers (DG JUST). Indeed, the Observatory is looking to gather more data on the relationship between counterfeits and unsafe and substandard goods with DG JUST. Plans to support testing activities initiated by DG JUST in the context of the CASP have been made. Through CASP, the MSAs implement their controls on unsafe products. The EUIPO promotes a joint targeting of unsafe and, at the same time, counterfeit products through customs/police enforcers and MSAs.

The Directorate-General for Communications Networks, Content and Technology (DG CNECT) also supports the Observatory's activities, particularly the Blockathon Forum and related follow-up activities.

12.2 Cooperation with other organisations

OECD

Following the joint study on counterfeit trade published in 2016, and the follow-up studies on counterfeit goods, the EUIPO and the OECD decided to continue their cooperation until 2021, under the terms of an MoU signed in June 2017. A study on counterfeit medicines was

published in March 2020, and a study on the misuse of container shipping in counterfeit trade was carried out in 2020 for publication in February 2021. An extension of the MoU to allow the cooperation between the two organisations to continue beyond 2021 is currently being prepared.

The EUIPO participates actively in the OECD's Task Force on Countering Illicit Trade (TF-CIT). The joint EUIPO-OECD studies are carried out under the auspices of the TF-CIT, as well as the work on a code of conduct for clean free trade zones following the adoption of a recommendation by the OECD Council in 2019.

European Patent Office

The EUIPO and the EPO cooperate on many levels. In terms of Observatory-specific activities, the main areas of cooperation are joint economic studies such as the firm-level IP Contribution Study, carried out in 2020 and published in early February 2021. In addition, the Observatory participates in the annual IP Executive Week, a week-long training event for officials from IP offices around the world, co-organised by the EUIPO and EPO and alternating between Alicante and Munich.

UNICRI

Based on the MoU between the EUIPO and UNICRI signed in 2016, UNICRI is developing a series of in-depth studies on IPR criminal cases from initiation to final judgment. Each case study includes an anonymised case note and a supporting presentation and is intended to be used by prosecutors as legal literature in court, to raise their awareness and increase the quality of seminars, meetings and workshops aimed at prosecutors. The cases are selected to reflect as many different issues as possible that will be relevant to prosecutors dealing with IPR criminal cases. So far, 14 such cases have been developed, covering areas such as counterfeiting, file sharing, money laundering and computer fraud.

European Audiovisual Observatory

In late 2016, the EUIPO signed an MoU on bilateral cooperation with the European Audiovisual Observatory. The scope of the MoU includes cooperation on activities of common interest, such as joint legal publications relevant to IP enforcement and the audiovisual sector, information exchange on audiovisual economics, methodology and data, as well as

information exchange on case-law and other legal developments related to IP enforcement and the audiovisual sector. During 2020, the European Audiovisual Observatory provided the EUIPO with data for economic studies, contributed to the discussion on the development of agorateka and served as a peer reviewer for the title-level study on consumption of pirated content.

13. Communication

Communication is of crucial importance to the ability of the Observatory to fulfil the role assigned to it by the EU legislative body. Specific channels are used to address the different target audiences, including policymakers, public and private stakeholders and other official and private participants, enforcers and the general public.

- **Media outreach**

As mentioned previously in this report, on 10 June, World Anti-Counterfeiting Day, the 2020 edition of the pan-European media campaign was launched to coincide with the publication of the status report on IPR infringement, as well as the report on poly-criminality jointly released with Europol. The campaign achieved significant reach in all Member States, in print, online and in the audiovisual media. A total of 1 033 clippings worth an average total of EUR 8.3 million was generated, covering all EU Member States with an estimated reach of five times the EU population, with one third of the coverage in tier-one media.

Media coverage monitors the performance of the media campaigns developed for the release of major studies (such as the joint studies with the OECD and the IP Perception study), and mainly targets the four largest Member States (Germany, France, Italy, Spain) as well as Belgium. For cost-effectiveness reasons, media impact is measured over one week for each release. A media campaign targeting all Member States is carried out for the release of the status report, 'Spring campaign'.

In terms of qualitative assessment, Observatory studies, and their results/data, are increasingly mentioned and assessed positively in major print or online press in the target countries and are also attracting attention in audiovisual media depending on the period of the release or the topic of the publication, in addition to more traditional coverage in the trade and IP specialised press.

- **Website**

The [Observatory website](#) contains a wealth of content, including all past conference reports and the minutes of past stakeholder and working group meetings, as well as a dedicated restricted-access area for stakeholders. Observatory publications and studies are featured prominently. The list of stakeholders and working group members are updated when there are

changes, and new events are listed, as are any new public awareness campaigns, videos and other material provided by stakeholders.

Production of webinars, featuring Observatory studies and tools, is now a significant element in its outreach.

- **Ideas Powered**

Ideas Powered aims to bring IP closer to the younger generations and continues to ensure a consistent presence online. This year's edition with influencers, scheduled to take place in Berlin in June, had to be postponed due to COVID-19. Other events that Ideas Powered had planned to attend were also cancelled due to the pandemic. Social media posting, however, remained active on all the Ideas Powered accounts (Facebook, Twitter and Instagram), which currently have around 59 500 followers, over 4 000 of whom were added during 2020. Content published in 2020 on existing Ideas Powered social media channels has so far received over 2 million impressions.

The accounts operated with the following average figures in 2020:

- average monthly impressions: 420 000;
- average engagement rate: 6 %.

The Ideas Powered initiative is being developed in a more integrated manner now to cover focused work streams: **Ideas Powered for schools** covering the education project and the development of a dedicated web page; **Ideas Powered for youth** including management of the social media accounts and youth events, and; the newly created **Ideas Powered for business**, with a new SME corner page launched on 1 July 2020, as part of the EUIPO's new SME Programme. A rebranding exercise of Ideas Powered is ongoing.

- **Newsletter**

Further to a request from stakeholders to have regular communication on the work of the Observatory, an Observatory Newsletter has been published on a quarterly basis since December 2013.

The newsletter's main objectives are to share information with the stakeholders on the Observatory's current work streams and to give network members the opportunity to express

their views and engage actively in our work by providing input to each edition. Each issue contains an update on activities, the calendar of upcoming events and news from stakeholders.

The newsletter is published in English and is sent by email to stakeholders. It currently reaches approximately 2 000 recipients.

- **Stakeholder meetings**

There are two meetings per year for each of the established working groups – one in spring and one in autumn. The structure of the meetings continues to consist of group meetings over 3 or 4 days, with some of the meetings held in parallel, and a common session for all the working groups. The spring meetings, planned for March 2020, were cancelled due to the COVID-19 pandemic. The second round of meetings, in October 2020, was held online.

The 2020 public sector representatives meeting was held in early March in Croatia. Participants endorsed the 2019 Observatory Annual Activity Report and were given updates on the Observatory's work, including the latest studies and the work on free trade zones taking place in the OECD's Task Force on Countering Illicit Trade. There was also a workshop on putting IP crime back into the policy priorities of the EU (EMPACT). After the meeting, the State Intellectual Property Office of the Republic of Croatia, in partnership with the EUIPO, hosted a conference on dangerous counterfeit products and their adverse impact on the public and on the environment.

The Observatory Plenary meeting was held online on 30 September-1 October. Following the overview of the different Observatory activities and the update from the European Commission, participants discussed the initial lessons learned from the COVID-19 pandemic, especially regarding the marketing of dangerous counterfeit medical products. The effort to include IP crime in the EMPACT priorities was also discussed, and the Work Programme of the Observatory for 2021 was presented and suggestions from the stakeholders were discussed.

14. Overall Assessment

According to Article 7(3)(c) of Regulation (EU) No 386/2012, the Annual Report should contain ‘an overall assessment of the fulfilment of the Office’s tasks as provided for in this Regulation and in the work programme’.

The tasks assigned to the EUIPO are set out in Article 2(1) of Regulation (EU) No 386/2012. These tasks are listed below, together with the activities and projects carried out in 2020 in support of each task. In some cases, an activity can contribute to more than one task. The Orphan Works Database was set up under a specific legal mandate, Directive 2012/28/EU, while the work on the Out-of-Commerce Works Database was carried out pursuant to Directive (EU) No 2019/790 on copyright and related rights in the Digital Single Market.

(a) Improving understanding of the value of intellectual property:

- IP Perception study;
- Firm-level IP Contribution study;
- the use of IPR bundles by EU firms study;
- the open-source software study;
- SME support activities outlined in section 12 of this report.

(b) Improving understanding of the scope and impact of IPR infringements:

- study on cybersquatting;
- infringement quantification: sectorial studies and joint studies with the OECD and quantification of digital infringement;
- Status Report on Infringement;
- report on the links between IP crime and other serious crime;
- conferences, such as the conference on dangerous counterfeit products (Zagreb).

(c) Enhancing knowledge of best public and private sector practices to protect IPR:

- data collection, analysis, reporting;
- study on dynamic blocking injunctions;
- study on legislative measures related to online IPR infringement;
- cooperation with intermediaries;
- knowledge-building events.

(d) Assisting in raising the public’s awareness of the impact of IPR infringements:

- *agorateka*, the European online content portal;
- FAQs on copyright for consumers;
- youth action plan/Ideas Powered;
- support for awareness-raising activities in Member States;
- IP in Education;
- media campaigns.

(e) Enhancing the expertise of those involved in the enforcement of IPR:

- knowledge building for enforcers;
- the studies related to infringement listed under item (b) above;
- Virtual Training Centre on IPR;
- EIPPN;
- seminars for judges;
- collaboration with the CCWP;
- pre-operational training for enforcers (with EC, Europol and OLAF).

(f) Enhancing knowledge of technical tools to prevent and tackle IPR infringements, including tracking and tracing systems, which help to distinguish genuine products from counterfeit ones:

- IP Enforcement Portal;
- Blockathon Forum and the follow-up activities;
- Discussion Papers on automated content recognition and enforcement tech watch.

(g) Providing mechanisms to help improve the online exchange between the Member States' authorities working in IPR, information on the enforcement of these rights, and fostering cooperation with and between those authorities:

- IP Enforcement Portal;
- support for protection of IP rights outside the EU;
- EIPPN;
- the grant to establish and operate the IPC3 at Europol.

(h) Working, in consultation with Member States, to foster international cooperation with intellectual property offices in third countries, to build strategies and develop techniques, skills and tools for the enforcement of IPRs:

- Cooperation activities discussed in Section 12 of this report, in particular:

- engagement in EU-funded projects in China, India, the ASEAN countries and Latin America;
- cooperation within the OECD's Task Force on Countering Illicit Trade;
- participation of non-EU officials in knowledge-building events organised by the Observatory;
- EG on international cooperation.

In summary, the EUIPO is carrying out a broad range of activities to accomplish all the tasks assigned to the Observatory in Regulation (EU) No 386/2012.

15. Challenges for 2021

The first years of the Observatory at the EUIPO have been devoted to laying the foundations for raising awareness through studies such as the IP Contribution and IP Perception studies, and to creating tools such as the Enforcement Portal or *agorateka*. Now that those foundations are laid and the tools have been built, the challenge is to maximise on their impact for the benefit of IP rights holders and ultimately society at large. This means continually improving them and encouraging their use by rights holders, beneficiaries and enforcement authorities.

The publication of the joint studies with the OECD on counterfeit trade and the sectorial studies on infringement have greatly added to the knowledge of the economic impact of counterfeiting. The poly-criminality report published jointly with Europol underlines the threat posed by organised crime in this sphere and its links to other types of crime. The joint study with the OECD on counterfeit medicines and the *Qualitative Study on Risks Posed by Counterfeits to Consumers* show that the damage from IPR-infringing products is not limited to the economy but can also have a serious impact on health, safety and the environment. Hopefully, these findings, leveraged through cooperation with the Member States, will contribute to making IP crime a priority area in the EMPACT's 2022-2025 policy cycle.

The EUIPO's new Strategic Plan 2025 came into force in July 2020 and includes several high-level initiatives of relevance to the work of the Observatory, such as working with intermediaries, AI and technology and SMEs. As an integral part of the EUIPO, the Observatory will contribute to the Strategic Plan's implementation.

Making sure that the intermediaries, in the broadest sense of the term (including, for example, shippers, payment providers, internet platforms), and rights holders cooperate to create a 'clean' market for genuine products in the EU will continue to require considerable effort.

Increasing the use of IP rights by SMEs is vital for the future of the EU economy, and the Observatory intends to do its part to this end through the European Commission's Action Plan on Intellectual Property, adopted in November 2020.

On 15 December 2020, the Commission published a proposal for a regulation on a Single Market for Digital Services (Digital Services Act). The Observatory will follow the legislative process and stands ready to provide assistance and analyses to the Commission, if requested.

The COVID-19 pandemic continues to create uncertainty. It is likely that for several months to come most events will be online. This includes the Public Sector Representatives meeting in February, the Private Sector Representatives meeting and the working group meetings in March, and the International IP Enforcement Summit, organised in cooperation with the Swedish Intellectual Property Office and the European Commission, originally planned to be held in Stockholm on 22-23 June.

Annex — Budget Execution in 2020

The Observatory is part of the EUIPO, so its budget is embedded in the overall budget of the EUIPO. For 2020, the total expenditure on Observatory activities (including salaries of statutory staff and other staff-related expenditure) was EUR 12.3 million.

The table below summarises the expenditure by subject area. As an Activity-Based Budget model is used in the EUIPO, the Observatory budget is still organised using the previous structure. However, all the activities described in this report are included in one of the subject areas below.

Observatory activities	Execution 2020 (EUR million)
Economics and Statistics	2.0
Enforcement	3.5
IP in the Digital World	1.0
Legal and International	0.4
Public Awareness	2.5
Statutory meetings*	0.6
SP2020/SP2025 Projects**	2.3
TOTAL	12.3

* *Statutory meetings refers to the cost of hosting meetings such as the Public and Private Stakeholder meetings, the Plenary and the working group meetings.*

** *SP2020 finished on 30 June 2020. SP2025 came into force on 1 July 2020.*

Appendix F. The Boards of Appeal Annual Report 2020

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1. Preamble

2020 was a year shaped by the impact of the Covid-19 pandemic. In spite of all the challenges posed by it, the Boards of Appeal (BoA) displayed resilience and a great capacity for adaptability.

Chairpersons, Members and Staff, all made significant efforts to implement new initiatives, to adopt flexible approaches ensuring performance was unaffected and in doing so ensuring that the Boards of Appeal contributed significantly to overcome the consequences of the pandemic.

The Boards maintained its compliance with Key Performance Indicators (KPIs), its very high level of confirmation rates and delivery of timely appeal decisions.

At the same time the continuous focus on ensuring legal certainty, coherence and consistency in the practice of the Boards resulted in the adoption and implementation of new rules of procedure in appeal proceedings as well as the creation of several Coherency and Consistency Project (CCP) reports on key aspects.

The Boards determination to provide effective and useful tools for conflict resolution to the users also saw significant work in the creation and continued development of Alternative Dispute Resolution (ADR) services in providing a range of options to the users which reflects the multifaceted nature of the disputes they face. In order to strengthen the guiding function of the Boards on the practice of the Office, the past year saw the Litigation Service becoming an integral part of the Boards, thereby ensuring an optimal degree of alignment in compliance with case law from the Court of Justice as well as in the development of it. A Litigation Strategy Board, including both the decision-taking and the operations areas of the Boards of Appeal, was set up as a forum for discussion ensuring a consistent and coherent line of representation to be put forward before the European Court of Justice (ECJ) in trade mark and design cases.

Throughout the year the Board continually developed its activities, not only by its constructive participation and contributions to a broad range of innovative and multilateral projects, but also in its dedication to meet the challenges posed by the pandemic. Its contribution to innovation and economic development throughout the European Union (EU), includes a rather sharp focus on assisting innovators and small and medium-sized enterprises (SMEs).

2020 also brought the third iteration of the IP-case law conference, which stands as a centrepiece for the sharing of interesting views and knowledge on important aspects of Intellectual Property (IP). In view of the circumstances, the conference was held virtually which resulted in the highest attendance ever, with more than 700 participants from all over the world, cementing the position of the Boards as a central IP hub.

Looking ahead, the need for additional convergence programmes, including in the area of appeal proceedings, will be explored, and the network of EU Agencies' Boards of Appeal will be further developed.

IP Tool Back Office will be completed to take advantage of new technology and to provide the support needed throughout the Office, including in publication, the Boards of Appeal and in litigation.

2. Structure and vision of the Boards of Appeal

The BoA are responsible for deciding on appeals against first-instance decisions taken by the EUIPO concerning European Union trade marks and registered Community designs. The BoA are independent and, in deciding a case, are not bound by any instructions. The Boards' main objective is to render effective dispute resolution services for the EU IP system's users and addresses, in particular, the needs of SMEs.

A Board of Appeal deciding on a case consists of three Members, including the Chairperson. The Grand Board consists of nine Members, comprising the President of the Boards of Appeal as Chairperson, the Chairpersons of the Boards and Board Members. A Board may refer a case to the Grand Board if it believes that this is justified because of its legal difficulty, importance or special circumstances. For the same reasons, the Presidium may refer a case to the Grand Board. The Boards of Appeal presently consist of four Boards exclusively dealing with trade mark cases and a fifth Board that deals with design cases. Additionally, the Grand Board may hear any case with respect to trade marks and designs.

The Presidium is responsible for the rules and organisation of the Boards of Appeal. It is composed of the President of the Boards of Appeal, who chairs it, as well as the Chairpersons of the Boards and Members elected for each calendar year by all the Members of the Boards.

The President of the Boards of Appeal is appointed by the Council of the European Union. The President has managerial and organisational powers and chairs the Presidium and the Grand Board of Appeal. The Chairpersons of the Boards of Appeal are also appointed by the Council of the European Union. They have managerial and organisational responsibility for their respective Boards and are responsible for appointing the Rapporteur in each appeal case. The Members of the Boards of Appeal are appointed by the Management Board of the Office.

➤ [Members of the Boards of Appeal](#)

Following a selection procedure, the Management Board of the Office appointed three new members of the Boards of Appeal. Their mandate started on 1 February 2021.

As of 1 September 2020, the EUIPO litigation service, responsible for the Office in trade marks and design cases before the Court of Justice, and, previously belonging to the International Cooperation and Legal Affairs Department, has now become part of the Boards of Appeal Operations Area in the interest of centralising the appeal stages of IP litigation. This change has been agreed with the Executive Director of the EUIPO in order to strengthen the guiding function of the Boards on the practice of the Office.

Moreover the new structure will ensure that interaction between the General Court and the EUIPO's Boards of Appeal is further optimized, enhancing and strengthening the consistency, predictability and quality of the decisional practice of the Boards of Appeal and reinforcing coherence in the representation of the Office in actions brought before the General Court. The President of the Boards of Appeal has been sub-delegated by the Executive Director of the EUIPO the power to appoint the EUIPO agents acting before the Court of Justice.

The Executive Director's Administrative Decision No 20/32 deals with the administrative structure of the Boards of Appeal; specifically under Article 3 it states that the Boards of Appeal Operations Area

is established for the management of their operations, including matters such as legal support, quality performance, information technology (IT) and risk analysis.

The position of Director of the Boards of Appeal is appointed by the Executive Director of the Office after consultation with the President of the Boards and the appointed person operates under the Authority of the President of the Boards. To guarantee their independence, the Director, in the exercise of her/his powers, does not interfere with the decision-making competence of the Boards.

The Boards of Appeal Operations Area comprises four services:

- The Registry;
- The Knowledge and Information and Support service;
- The Alternative Dispute Resolution Service;
- The Litigation Service.

The four Head of Service of each of these services, including the Registrar, are appointed by the Executive Director after consultation with the President of the Boards and the appointed persons report to the Director; this without prejudice to the functions performed by the Registrar under the authority of the President of the Boards pursuant to the EUTMR, EUTMDR and the decisions of the Presidium of the Boards.

In relation to the Registry, Article 4 of the Executive Director's Administrative Decision No 20/32 applies, whereby the Registry, for the purposes of the management of the appeal proceedings, shall have the competences as laid down in Article 45 EUTMDR. It is headed by a Registrar.

The mechanisms of the Alternative Dispute Resolution Service in the Boards of Appeal exist to better serve companies and SMEs, and to offer a more effective resolution of disputes. EU IP litigation can be time-consuming and costly. A great deal of management time is invested in administering ongoing legal proceedings, instead of concentrating on the clients commercial interests. ADRS mechanisms, as an interest-based, rather than a rights-based process, offer another approach, and reflects EUIPO's commitment to providing a quality service. Putting the needs of the parties at the centre of the process, provides cost-effective and tailored mechanisms for resolving disputes. Six Presidium decisions of the Boards of Appeal govern delivery of the services to the interested parties.

3. The Boards of Appeal

3.1 Decision-making activities

	2018	2019	2020
Decisions notified	2.602	2.507	2.563
EUTM	2.500	2.396	2.420
RCD	102	111	143

Figure 1. Decisions notified

	2018	2019	2020
GB completed cases	3	6	3
GB pending cases	13	12	15

Figure 2. Grand Board (GB) decisions notified and GB cases pending on 31st December

	2018	2019	2020
Pending cases	570	782	970

Figure 3. Cases ready for decision at the end of year

3.1.1 Important appeal decisions

The most important appeal decisions are also regularly disseminated through digital publications such as [Alicante News](#) and the [Yearly Overview](#).

In 2020, the Boards of Appeal rendered a number of key or illustrative decisions, for instance, cases [R 1504/2020-5, FLORVERDE SUSTAINABLE FLOWERS \(fig.\)](#) and [R 1364/2019-2, lsm ATEX INERIS EX Installation Service Maintenance \(fig.\)](#) on **certification marks**, cases [R 109/2020, Titanic](#) and [R 635/2019-4 ViV BEBÉ \(fig.\) / BEBE \(fig.\) et al.](#), regarding assessment of **evidence of use** or [R 1132/2019-4, Champagnola / Champagne](#) on **geographical indications**. The analysis of **deceptive marks**, such as [R 1588 and 1589/2019-2, Vichy Barcelona](#) following the approach of its 'LA IRLANDESA' Grand Board case. In relative grounds cases, recent court case law has clarified that non-distinctive or descriptive elements should be given less weight in conflicts. [R-2886/2019-2 SO'BIO ETIC \(fig.\) / BIO-ETYC](#) serves to highlight that evolution. In spite of identical goods, it was confirmed that marks coinciding in the descriptive word 'BIO' would not be confused.

3.1.2 Key Grand Board decisions

In 2020 the Grand Board of Appeal ('GB') decided on three cases, suspended four cases, while six new cases were referred to it (five by interim decision and one by the Presidium). By the end of December, 15 cases were still pending before the Grand Board.

The most important GB decisions delivered in 2020 are the following:

- In case [R 2445/2017-G, Sandra Pabst](#), the GB confirmed the decision of the Cancellation Division, namely that the revocation request had been filed as an abuse of rights and process. These findings were reached taking into account the number of revocation requests (37) filed against the same company practically simultaneously, together with the attempt to acquire one of those trade marks (exerting disproportionate pressure on the EUTM proprietor which was done in a retaliatory manner), the nature of the company which filed the revocation request and the number of other cases launched by the same or economically linked companies, concerning their hundreds of revocation actions and thousands of trade mark filings and trade name registrations.
- In case [R 1499/2016-G, LA IRLANDESA 1943 \(fig.\)](#), the GB declared the EUTM invalid firstly on the grounds of it being deceptive within the meaning of Article 7(1)(g) EUTMR. The dominant word elements 'LA IRLANDESA' establish a geographical link to Ireland. Used on the goods at issue in Class 29, 'LA IRLANDESA' will be understood by relevant Spanish-speaking consumers as an indication that these products are of Irish origin. It has however been proven by the invalidity applicants that the goods are not of Irish origin. The serious risk that consumers would believe that the goods bearing the mark were of Irish origin, when in fact they were not, was already present at the time of filing the EUTM application.

Secondly, the GB declared the EUTM invalid on the grounds that it was filed in bad faith. The objective circumstances of the case lead to this conclusion, namely, the use, in a deceptive manner, of the contested mark by its proprietor, the many previous EUIPO and Spanish Court decisions establishing other 'LA IRLANDESA' marks as being deceptive, and the previous business relationship with one of the (Irish) invalidity applicants. These factors lead to the conclusion that it was the EUTM proprietor's intention to take advantage of the image of Irish products, even though its products were not of Irish origin (**02/03/2020, R 1499/2016-G, LA IRLANDESA 1943 (fig.)**).



- In case [R 0379/2017-G, VICHY SPA \(fig.\) / SPA et al.](#), the GB rejected the opposition with respect to both earlier marks and to both relative grounds for refusal (Article 8(1)(b) and 8(5) EUTMR). Bearing in mind the context in which the contested trade mark is intended to be used (hotel and restaurant services), the consumer will attribute to the element 'SPA' the meaning of 'spa' (wellness centre). As a result, the presence of this word in the contested mark – moreover as a secondary element underneath the word 'VICHY' – will fulfil a merely informative purpose and will not generate any likelihood of confusion with the earlier marks

'SPA' and 'LES THERMES DE SPA', in which the same element fulfils different purposes (designating a brand of mineral water and a geographical location in Belgium, respectively). Use of the generic word 'SPA' in the contested mark is supported by due cause (informing the public of spa facilities in restaurants and hotels) and will not take any undue advantage of the reputation of the earlier marks.



All GB cases, closed and pending, can be consulted on the [EUIPO website](#).

3.2 Operational Activities

3.2.1 Registry

The main challenge for the Registry during 2020 has been the forced adaptation of the workflow due to the COVID-19 home confinement measures. In particular the delivery of files to the Boards after the closure of the written proceedings has changed from paper version to an electronic version. Files have been stored on a dedicated shared repository space and new rules were put in place to allow the Boards to have access to the electronic files including its updates. Both the Registry and the Boards have responded positively to the change. As a result, the implemented method of making appeal files available electronically has remained after the return of staff to the Office in September, creating the possibility of still printing a specific file on request. Consequently, the print assignments has dropped drastically which resulted in a saving of 50% of the total amount of pages printed compared to 2019.

In parallel the Registry revised the courier process in such a manner that packages can be sent with courier service by using the inhouse reprography service without having the need for Registry staff to be at the Office. This successfully tested process has since been established as a normal workflow process.

During the home confinement Registry staff was in frequent contact with each other, mainly via MS Teams. This provided support to staff members in their social isolation and ensured that the new working instructions were correctly understood and the new methods implemented smoothly. Staff also efficiently coped with the additional wave of tasks due to the ED's decisions on extension of deadlines because of the outbreak of the Covid-19 pandemic.

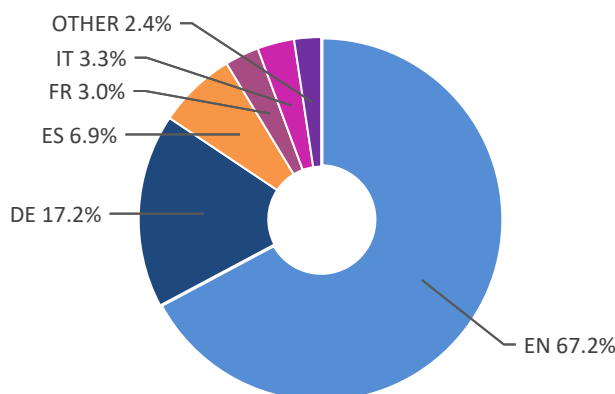
In addition of being responsible for the management of appeal proceedings, the Registry has been involved in a broad range of activities. On the technical side it contributed to improvements to the existing IT systems (BoAST and DAS) and the development of IP Tool BoA from a business perspective. In relation to the workflow, improvements were made on the functionalities for managing the communications from the Rapporteur and the re-allocation of appeal files between the Boards. Improved Registry oriented statistics have been developed, including a new dashboard in power BI catering for a quick overview of pending cases at different stages of the proceedings.

During the year 2020 the Registry coped with an increased workload in relation to the follow up on Grand Board cases and the administrative management of mediation cases, revising its processes and guidelines in collaboration with ADRS.

On substantial procedural matters the introduction of the Rules of Procedure before the Boards of Appeal (RoP) brought some changes for the Registry practice (see below). The respective part of the Registry Guidelines has been amended and standard Registry templates been revised. During the year the Registry has forwarded procedural topics to the KC Appeal processes for discussion. It has also been involved in the Brexit preparations in relation to pending appeals.

The Registry has implemented the retention policy on all the paper archives boxes. It allowed the External Custody Center (ECC) to be emptied by destroying more than 2 300 boxes. At the same time a re-scanning exercise on old decisions in the Office premises guaranteed that all the BoA decisions have been correctly saved in electronic format and in color.

Due to the re-organisation of the BoA, in September, the Litigation Coordination Team (LCT) became part of the BoA Registry. This team handles the court proceedings on behalf of EUIPO before the General Court and the Court of Justice on appeals filed against decisions adopted by the Boards of Appeal.



‘English is the most frequent language of the procedure, followed by German and Spanish’

Figure 4. Appeals filed during 2020, per language of the proceedings

	2018	2019	2020
Appeals filed	2.589	2.988	2.479
EUTM	2.463	2.832	2.382
RCD	126	156	97

Figure 5. Appeals filed

During 2020 a total of 2 479 appeals were received, a decrease of 17% as regards 2019. Most of the appeals concern *inter partes* decisions (73% of the total). Regarding appeals against Community design decisions, after an increase of 24% in the previous year, it has decreased by 38%.

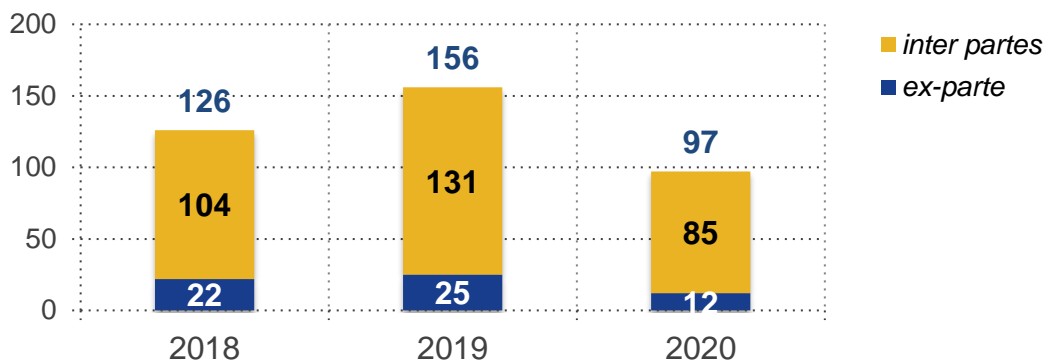


Figure 6. Year to year evolution of Appeals on Community design decisions

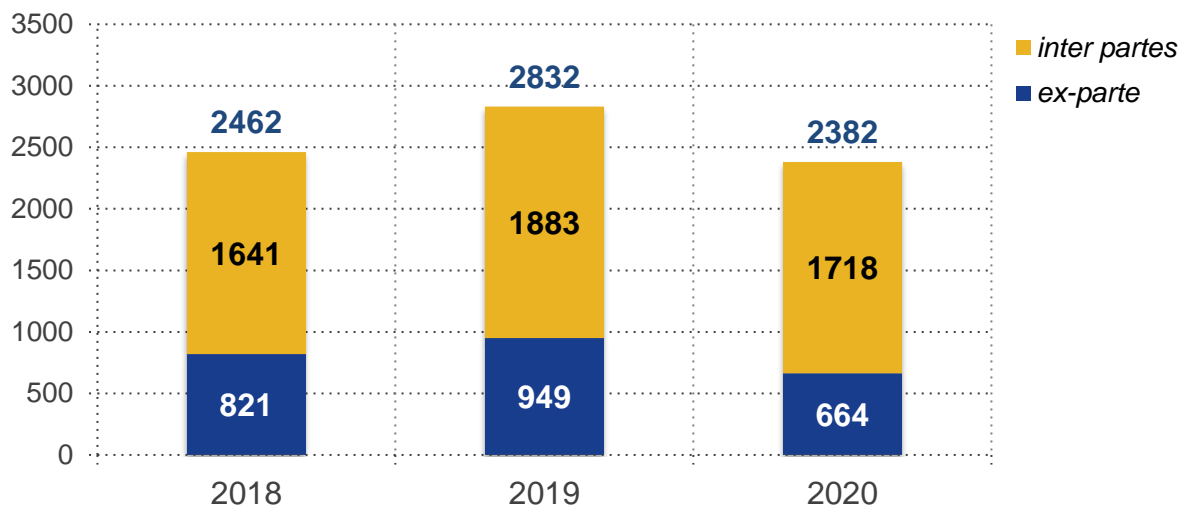


Figure 7. Year to year evolution of Appeals on trade mark decisions

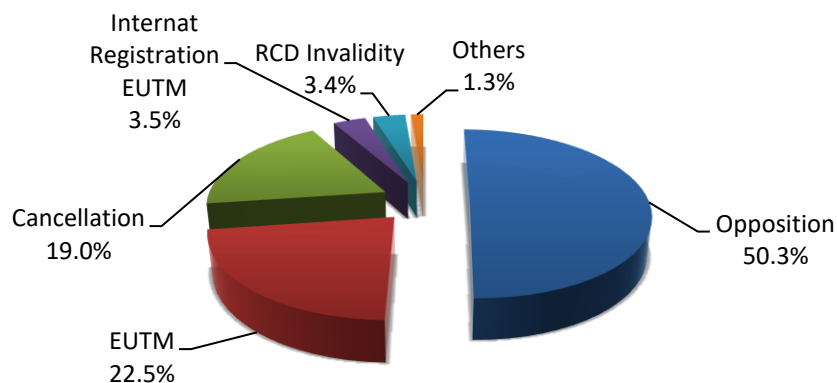


Figure 8. Filing ratio by type of first-instance decision

Appeals filed, by type	2019	2020
Opposition	1,420	1,247
EUTMA Refusals	775	557
Cancellation	463	471
IR designating the EU	147	86
RCD Invalidity	131	85
Others	52	33
Total	2650	2479

Figure 9. Appeals filed, by type of first-instance decision

Moving Averages of Appeals vs Decisions

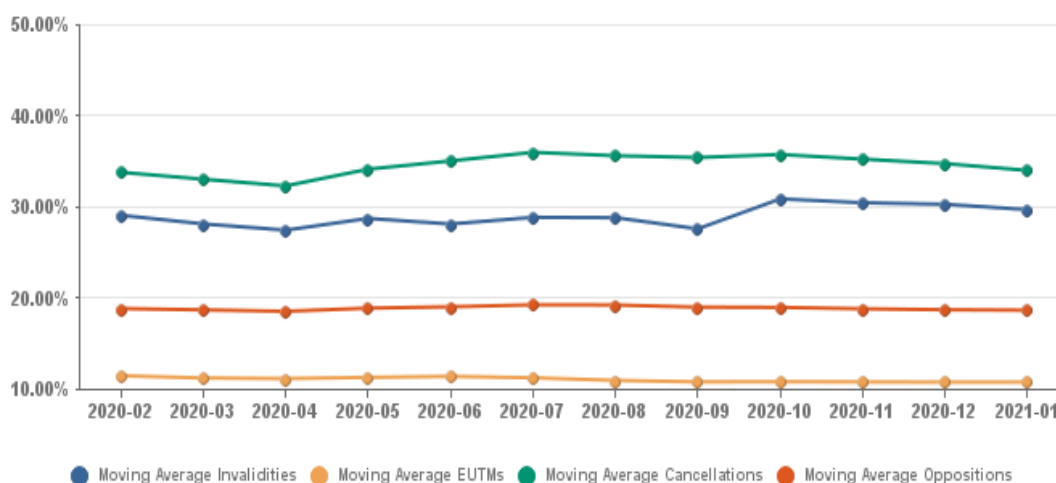


Figure 10. Average ratio of appeals vs first-instance decisions

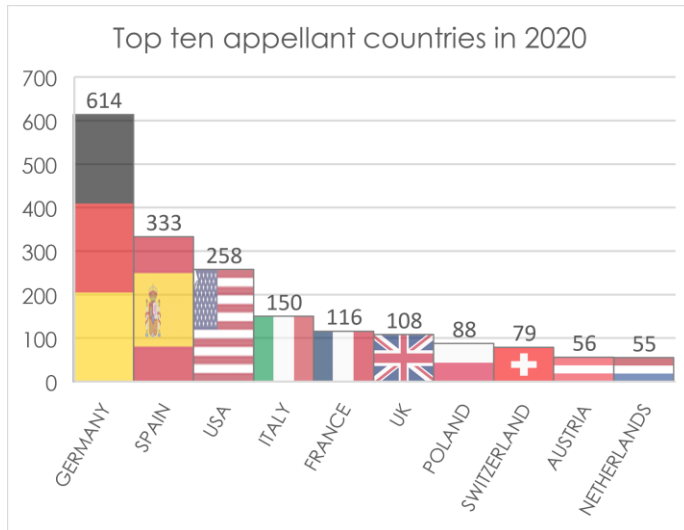


Figure 11. Top ten appeals by the nationality of the appellant

3.2.1.1 Interactive Collaborative Appeal Management (ICAM)

Considering the positive experience with the Office's Interactive Collaborative Examination (ICE) teams, the method of interactive collaborative working, set up in 2019, has been implemented in order to optimise the quality and consistency of appeal proceedings by identifying and clarifying procedural issues. Interactive collaborative working also resulted in faster troubleshooting and enhanced knowledge sharing within the Registry team.

Although the ICAM could not mature in full mainly due to the pandemic situation, the ICAM group continued to function as a forum for presentation, discussion, training and continuous update of appeal proceedings' related topics in virtual meetings, advancing the harmonisation of practice and quality performance, as well as fostering collaborative solutions.

3.2.2 Litigation Service

The Boards of Appeal's Litigation Service is responsible for representing EUIPO in actions brought before the EU Courts (General Court and Court of Justice) related to decisions of the Boards of Appeal. The Litigation Service also assists the Legal Service of the Commission by stating the Office's position with reference to a Preliminary Ruling relating to trade marks, designs, geographical indications and other IP rights. The Litigation Service is instrumental for the Boards of Appeal's guiding function on the EUIPO's practice.

In 2020, 318 new actions were brought before the EU Courts against the decisions of the Boards of Appeal. In total, the Litigation Service dealt with 334 pending (as of 31/12/2020) actions before the EU Courts.

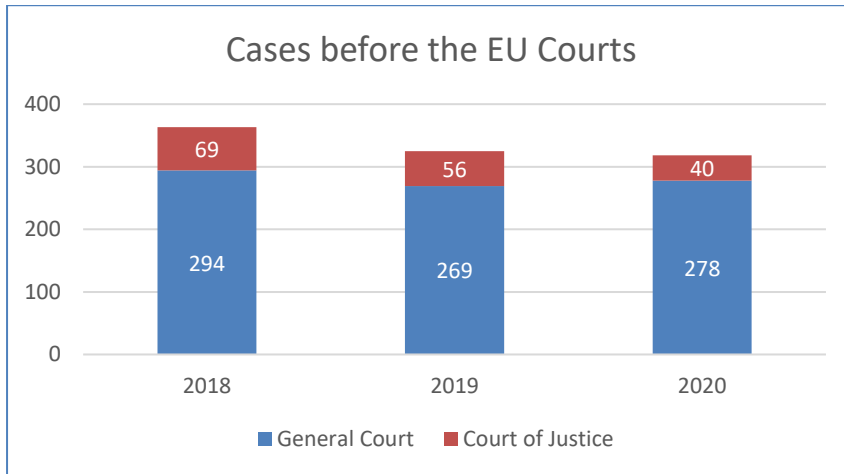


Figure 12. Cases before the EU Courts

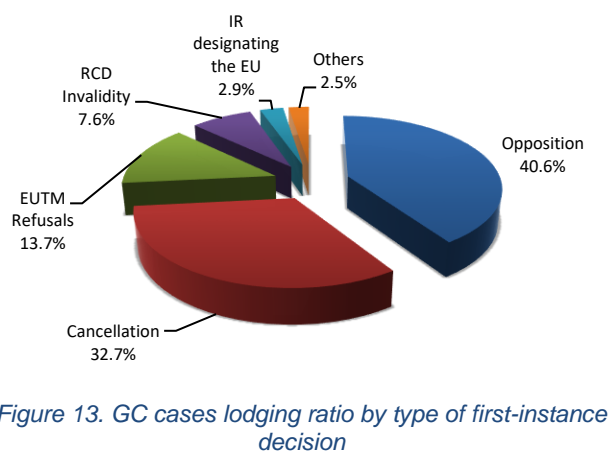


Figure 13. GC cases lodging ratio by type of first-instance decision

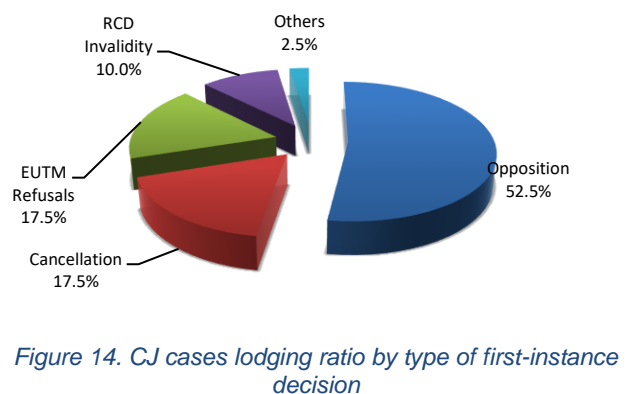


Figure 14. CJ cases lodging ratio by type of first-instance decision

It should be noted that the Litigation Service has been able to ensure the EUIPO's representation in all oral hearings convened by the EU Courts, despite the challenges of the pandemic crisis and the corresponding travel restrictions, by means of the increased use of the Liaison Office and the EUIPO's technical capacity to secure the agents' attendance at oral hearings by means of videoconference.

The confirmation rates of BoA decisions by the General Court are displayed below [see para. 4.4].

The Litigation Service also contributed to 12 preliminary ruling proceedings before the Court of Justice.

Furthermore, the Litigation Service of the Boards of Appeal launched a new format of the Overview of CJ/GC Case-law: a comprehensive and effective tool for users to learn about IP case law of the Luxembourg Courts in a quick and easy manner.

This publication now contains a systematic compilation of key points from judgments and orders rendered by the Court of Justice and the General Court of the European Union in 2019 and 2020 on appeals of decisions taken by the Office's Boards of Appeal in trade mark and design matters and also in judgments rendered by the Court of Justice in preliminary rulings on IP rights and their enforcement.

Each key point is preceded by keywords (to quickly identify the relevant issues) and hyperlinks to the Office's eSearch Case Law database (where text of the judgment/order, its translations and summary, decisions of the First Instance and of the Board of Appeal and links to the InfoCuria Database can be found).

This compilation is regularly updated with key points of recently delivered judgments/orders.



- [OVERVIEW OF CJ/GC CASE-LAW - 31/08/2020](#)

3.2.3 Alternative Dispute Resolution Service (ADRS)

The ADR services have been introduced by the Boards of Appeal to better serve companies and SMEs, and to offer them more choices in effectively resolving their disputes. ADR is attractive because EU IP litigation can be time-consuming, unpredictable and costly. The costs are not just in the professional fees needed to litigate effectively but also extend to the management time diverted to administering any such ongoing legal proceedings. Time that could have been devoted to profitable commercial interests. Moreover, IP is particularly prone to cross-border disputes for which global solutions are necessary but for which traditional litigation simply encourages confrontations on multiple fronts.

Since its creation ADRS offers mediation and conciliation. In 2020 mediations and conciliations proposed reached its highest level, amounting to 94.

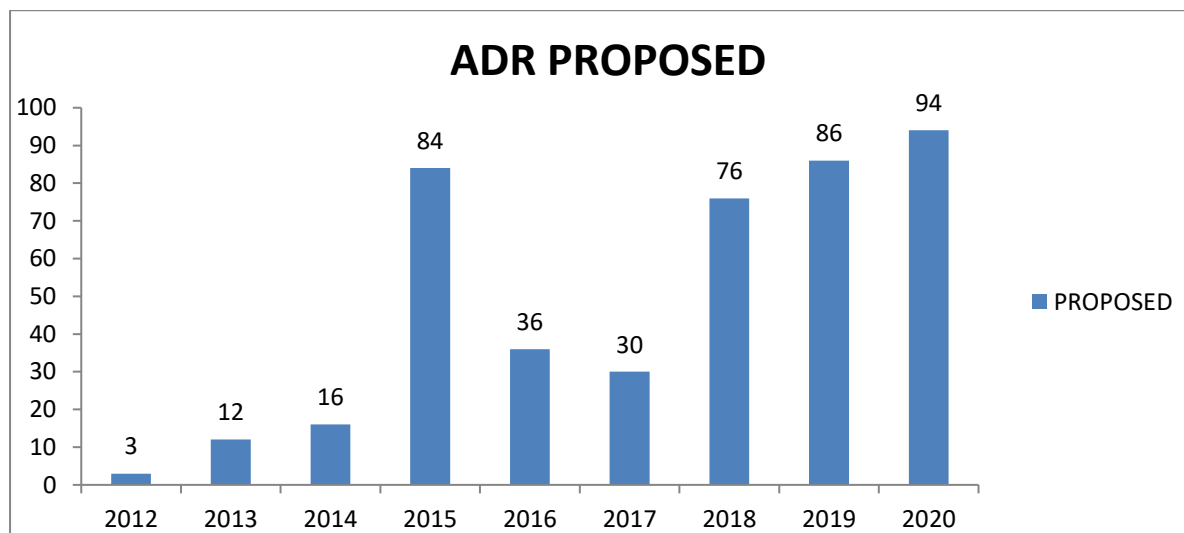


Figure 15. Alternative Dispute Resolution proposed cases

As a response to the evolving business environment with effect from July 2020 additional sophisticated tools were introduced: assisted negotiation and expert determination, which may be used in combination or separately. Assisted Negotiation is a process in which a facilitator can support an unrepresented SME by coaching on strategy 'in the shadows' but without that facilitator engaging in any direct negotiations with another party, in order to reach an amicable agreement. The principal task of the appointed facilitator is to mentor the SME on how to achieve the best possible settlement. Expert determination is a process in which an expert appointed by the parties to a dispute gives a binding or non-binding opinion on the matters that have been submitted. It is mainly designed to be offered to parties that are unable to agree on specific legal, commercial and/or technical issue(s) in the context of some other ongoing ADR process, most typically mediation. A new service – early neutral evaluation – is planned to be introduced in the course of 2021.

Further challenges for the ADRS would be to develop ground for arbitration which is an entirely different service than the ones offered currently, since in arbitration the dispute is decided by one or more arbitrators who render an award that is legally binding on both sides and enforceable in the courts.

3.2.4 Effective Dispute Resolution (EDR) SME COVID-19 special service

As a result of the COVID-19 pandemic many SMEs across the EU have suffered devastating economic repercussions. In order to aid these SMEs, the ADRS set up, in the time span of one month, a completely new service – Effective Dispute Resolution (EDR) SME Covid-19 special service. Effective Dispute Resolution means the settling of disputes by using the most effective alternative dispute resolution mechanism possible.

The EDR special service is offered for unrepresented and represented SMEs at different stages in EUIPO proceedings (for the first time also in opposition, cancellation and RCD invalidity proceedings) and is coordinated by the ADR Secretariat who designates an EDR case handler to guide SMEs through various amicable resolution possibilities. This service maximises their business's intellectual property potential with help from experts. To that extent, SMEs which request EDR services, receive support to find a cheaper, quicker and easier way to solve their IP-related disputes; to achieve the

most suitable settlement for their type of business; and to avoid complex litigation proceedings, draining resources and acting as an obstacle to their core business.

The service is split into two different phases and has 23 EDR case handlers covering nine EU languages (English, German, French, Spanish, Italian, Bulgarian, Polish, Dutch and Greek). In the first phase, the case handler receives a request to use the special service and explores in a confidential environment the background to the dispute pending before the EUIPO and any other parallel proceedings elsewhere. If the SME and the other party agree, and once one of the recommended means of dispute resolution has been chosen, the second phase will be immediately launched. This can either be mediation, conciliation, assisted negotiation, expert determination or any combination of these services. This entire service is run remotely via telephone, email, Microsoft Teams and Zoom – according to the technical capabilities of the requesting SME.

3.2.5 ADRS Networks

Stakeholders Advisory Board (SAB)

2020 was the second year of the functioning of the Stakeholders Advisory Board, a supportive body for the ADRS that was created to work on holistic and coordinated lines of action in furthering dispute prevention, de-escalation and resolution with the aim of ensuring that the services offered are first-rate and meet real commercial needs and interests. Due to the pandemic SAB has met only once, this was in October 2020, however its members continued to provide support working virtually. SAB key achievements include adoption of the Working Methods of the ADR-SAB, detailed Work Plan for 2021, four different types of pledges (Business Associations, Companies, User Associations and Law Firms) and comments on any new ADR service – Expert Determination. This has also been possible following the addition of new members of SAB, such as the European Small Business Alliance or European Enterprise Alliance, that shifted focus towards SMEs.

Currently the ADRS and the SAB members are actively working on several Working Groups created during the meeting held in October 2020. In this meeting, the SAB members together with the ADRS agreed on creating Working Groups for the development of: **(i)** a Code of best practices on Expert Determination, **(ii)** Multi-tiered Contractual Clauses and **(iii)** Early Neutral Evaluation. The work carried out by the different Working Groups will be presented at the next SAB meeting in April 2021. All these projects are part of the Work Plan 2021 and will continue during this year.

As part of the efforts to promote the services offered, additional networks have been established in 2020 with groups that play an active, participative and advisory role in the initiatives the ADRS intends to take.

Chambers of Commerce

Regional Chambers of Commerce play an important role in helping companies to make their voices heard. Ensuring that ADR services meet the particular needs of SMEs is crucial, since SMEs are one of the main focuses of the EUIPO's Strategic Plan 2020-2025. To make sure these services are accessible to the greatest number of SMEs, a network has been set up to bring some of the key EU Chambers of Commerce together in order to explore how best to raise awareness about ADR opportunities and create support mechanisms allowing companies involved in IP disputes to use these services to obtain optimal conflict resolution.

Around 30 chambers of commerce from all over Europe participate in the network and together they

have agreed on a common statement of intent in which they set out the most important points of their cooperation and collaboration. The next step is to set up an IP Mediation Ambassadors scheme within each chamber of commerce participating in the network to promote mediation and other ADR mechanisms for use in IP disputes and to provide basic training and information in the respective local language for the companies and to agree on a specific Work Plan which will describe in detail the plan of action.

Network of IP Judges of the EUTM and RCD Courts on mediation

To encourage courts to inform parties of mediation possibilities in IP disputes, this network brings together judges sitting in courts in the European Union that have jurisdiction in intellectual and industrial property matters.

Cooperation with the judiciary is highly advantageous for strengthening the use of mediation in IP proceedings pending before national courts and EU/national IP Offices and to foster closer relations with the various national and European mediation and other ADR providers.

Among the goals of the cooperation programme are: increasing the use and impact of mediation in IP; raising awareness among IP right owners involved in multiple disputes in order to encourage sustainable global settlements; fostering mediation by establishing a road map by which judges may recommend IP cases to be referred to ADR; achieving better and more durable agreements than the ones reached just through negotiation and allowing the creation of close links between mediation-friendly judges while drawing-in new members of the judiciary.

For the time being the Presidium of the Boards of Appeal appointed 17 mediators that support ADRS. To guarantee that in the future there will be a sufficient number of accredited mediators covering the broadest range of languages and nationalities possible, it was necessary to launch a new training and accreditation process to cover these needs. Following a published call for talent in May 2020, candidates have been selected and have undergone the training delivered by a recognised mediation centre. It is foreseen that the number of the appointed mediators in 2021 will reach 35 and will cover 12 EU official languages.

The Office and its Boards of Appeal, under the Strategic Driver 2 of the SP 2025 is planning to offer a platform that covers oral hearings and mediation fully online, in order to make them easily available to any EU and world-wide market player. In order to comply with the business requirements, a feasibility study has been commissioned which took place over the summer period of 2020. The feasibility study conducted a thorough analysis of all existing platforms with similar characteristics, by evaluating their appropriateness from a cost, benefit and risk point of view, and following the requirements already set out by the BoA. The report sums up all the data and provides key outcomes on the most appropriate tools for the EUIPO to use in the future. Following the study completion, the BoA organised individual demonstration sessions with the four highest rated platform providers. During these meetings, demos of the platforms were presented and potential features were discussed that might be developed by the providers in order to meet specific needs of the Office. Following a study and presentation of the platforms a recommendation has been made for the platform that satisfies the Office's most important business requirements. Currently the BoA is in the process of adopting the platform to be fully operational in the near future.

3.2.6 Knowledge and Information Support Service (KIS)

KIS is a multifaceted service that 'connects' the Boards, the Registry and the Presidency, providing them legal, administrative and technical support necessary to perform the main task of the Boards of

Appeal, that is taking decisions in a coherent and consistent way. This year, the impact of the COVID-19 confinement measures was deeply felt by the entire department and reverberated also on KIS. Nonetheless, the service demonstrated adaptability and resilience to the challenges of, on the one hand, the management of an increasing number of appeal decisions and, on the other, the human difficulty to adapt to such an unpredictable situation.

In particular, following the consistent increase of decisions notified during the months of the home confinement and even on occasions afterwards, KIS doubled its efforts and successfully managed to proof read a considerable number of decision drafts (1 777), index 2 808 decisions once notified by the Registry, keep a steady publication ratio in the database of the Office (e-Search Case Law Database) and to implement the outcome of more than 2 000 cases, registering or refusing the trade marks subject of the proceedings accordingly.

KIS is also responsible for granting virtual access to the files of the appeal cases (BA-files) to the Litigation Service and to the Court of Justice in Luxembourg, whenever the appeal decision is challenged before the General Court. Even though the confinement measures had a certain impact on the performance of this task, it also gave the chance to KIS and the Registry to cooperate even closer and to successfully overcome the difficulties of not having physical access to digital data storage formats such as CDs and DVDs (usually containing proof of use or of reputation), finally managing to deliver the whole 280 files on time.

KIS also managed to keep actively supporting the decision-making process of the Boards which resulted in a series of actions aimed at providing the best available tools for decision drafters to perform their main duty in the most effective way.

In this framework, the service revamped the Case Quotation Manual, now more easily consultable and including citations of Grand Board cases that are binding for the Office, and prepared, in cooperation with the Presidency, various sets of standard paragraphs for the decision drafter to use in their drafts relating *inter alia* to Article 8(1)(b) and Article 8(5) EUTMR.

KIS contribution to the identification of internal documents affected by the new Rules of Procedure of the Boards has been another valuable asset for the Boards, as it allowed a prompt alignment of the relevant process cards, guidelines and instructions with the new text of the Rules. The constant update of decision templates continued. The following new templates were uploaded in BOAST and can be used by the decision drafters: Ex parte single member/full Board templates in Dutch; Referral AG in ex parte and Referral AG in inter partes in English; Rapporteur Communication in 23 languages.

Two new templates were created: 1) Communication to the Executive Director of the Office pursuant to Article 29 EUTMR, which was approved by the KC Appeals Processes and the BOA President and was sent for translation, and 2) Ex Parte Communication of the Board to be discussed and approved in 2021.

KIS assisted the Registry in the creation *ex novo* or modification of existing standard letters (18 standard letters amended and 17 newly created underwent discussion in KC Appeals Processes and approval by the BOA President), which were translated into the respective languages and will be put into production during 2021.

Even though KIS has no direct contact with the users, the service's ultimate vocation is to offer them a globally beneficial and effective experience, that encompasses a better navigation through the database of the Office (eSearch Case Law Database) and ensures that both the appeal proceedings and the final implementation of the decision are completed smoothly.

Therefore, while always keeping an eye on the users' needs, KIS managed to increase the number of decisions published in the database upon notification up to more than 95% and it continues working on ways to provide and enhance a better use of the database, preparing new lists of keywords to facilitate the searches of decisions, working on the quality of their summaries and preparing sets of tags for specific outcomes (such as withdrawals, appeals deemed not filed).

During 2020 the Knowledge Inbox received and replied to 40 queries coming from different internal and external sources: 22 queries have been received from users either through the Registry or directly from the Information Centre; 14 queries from the Registry; and 4 queries have been received from colleagues in other departments. The queries concern several topics: Brexit, Rules of Procedure and their implementation, procedural issues during the appeal, G&S limitation, extension of deadlines, costs in appeal proceedings, date when CJ order becomes final, help with case law/finding decisions and requests to amend/correct standard letter templates.

In 2020, the Quality Assurance and Performance Supervision Team within KIS ensured the efficiency of the working methods supported by an advanced reporting system that translated into a better service to our users. The Boards' Key Performance indicators were revamped to provide a more comprehensive approach.

4. Quality

4.1 KC Appeal Processes

The Knowledge Circle (KC) Appeal Processes was created to improve the clarity and predictability of decisions and provide support to the continuous circle of improvements. One of the main tasks of the KC is discussing harmonisation topics, which will result in instructions for both external users and internal staff.

The KC is composed of the Chairpersons of the BoA, together with one Member and Legal Assistant per Board, the Registrar and several representatives from the Registry and the Knowledge, Information and Support Service, International Cooperation and Legal Affairs Department (ICLAD), the EUIPO's Operations Department, Observatory and the Corporate Governance Service.

KC Appeal Processes is also responsible for studying case law on procedural issues, drafting and updating appeal guidelines and instructions, contributing to learning activities and for best practice benchmarking with other entities.

4.2 Coherency and Consistency Assurance Project (CCP)

The Coherence and Consistency Assurance Project aims to check the coherence and consistency of the decisions rendered by the BoA. The reports are reviewed periodically by the CCP team to ensure that they are kept up-to-date with any subsequent relevant case law (both from the EU Courts and the BoA). A compilation regarding the standard paragraphs stemming from these reports has been produced to aid decision drafting and also to guarantee consistency amongst BoA decisions. The CCP reports are periodically made available to all decision-takers within the Boards and also serve as a source of legal information and practice for a range of other activities and projects, such as the J-QALPP (see below) or BoA's contribution to the Office's Knowledge Circles, Convergence Projects and Legal Reform Workgroups.

4.3 Judges Quality Assurance and Legal Practice

The Judges Quality Assurance and Legal Practice (J-QALPP) project was launched in November 2020, with a plenary meeting which approved the J-QALPP Terms of Reference and the J-QALPP Work Programme, followed by three panel meetings analysing selected legal issues in the context of the Boards of Appeal’s decisions. The initiative has established a network of national IP judges. It puts in place a mechanism of quality review as regards legal practice, part of which involves analysing Boards of Appeal decisions. The methodology focuses on a problem-driven analysis where selected BoA decisions serve as a basis to discuss a given topic by a panel of national judges. The judges can also, on a voluntary basis, bring forward judgments of their respective jurisdictions with the aim of supporting and expanding discussions on the particular topic. This framework also allows national IP judges to share experiences and learn from each other. The national judges at the first panel meetings provided a series of observations and recommendations which are being compiled and will be taken into account by the Boards in their decisional practice. The judges also approved the list of topics proposed by the Boards and selected two new topics for the next panel meetings which will take place during the first semester of 2021.

4.4 Confirmation rates

The confirmation rates of first-instance decisions by the BoA are shown below. Particularly relevant is the positive evolution of cancellation cases, which increased from 68% in 2018 to 74% in 2020. The EUTM refusals confirmation rate has slightly increased from the previous year, while Opposition and Invalidity Design confirmation rates have decreased by 5%.

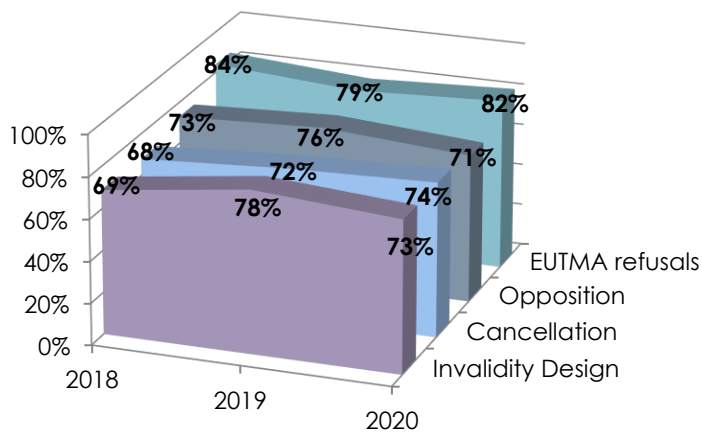


Figure 16. Confirmation rate of first instance decisions

The confirmation rates of BoA decisions by the General Court are displayed below. It is worth mentioning that these confirmation rates are closely linked with the appeal rate, as their result depends on the number of cases appealed before the General Court.

The appeal rate decreased as from 2019 and it was at 10.3% in 2020.

Based on a relatively stable figure of the rate of appeals at around 10%, the opposition decisions confirmation rate has slightly increased while EUTM refusals has increased 4% and the cancellations confirmation rate has increased 5%.

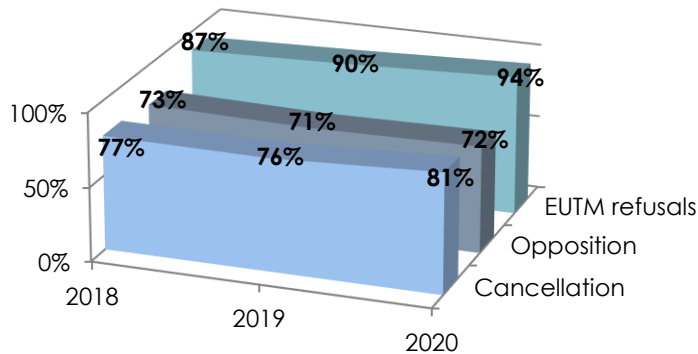


Figure 17. Confirmation rate of BoA decisions

4.5 Timeliness of appeal files

The timeliness of appeal files provides indications as to the extent the Boards of Appeal have respected the delivery of some key aspects of their services. The table below shows the key indicators for both proceedings and decision-making activities during 2020:

Appeal proceedings indicator	% of cases	Service Standard (days)	2020
EUTM <i>inter partes</i> appeals remitted to the BoA from filing of Observations	98%	<35	Excellence
RCD <i>inter partes</i> appeals remitted to the BoA from filing of Observations / Rejoinder	98%	<35	Excellence

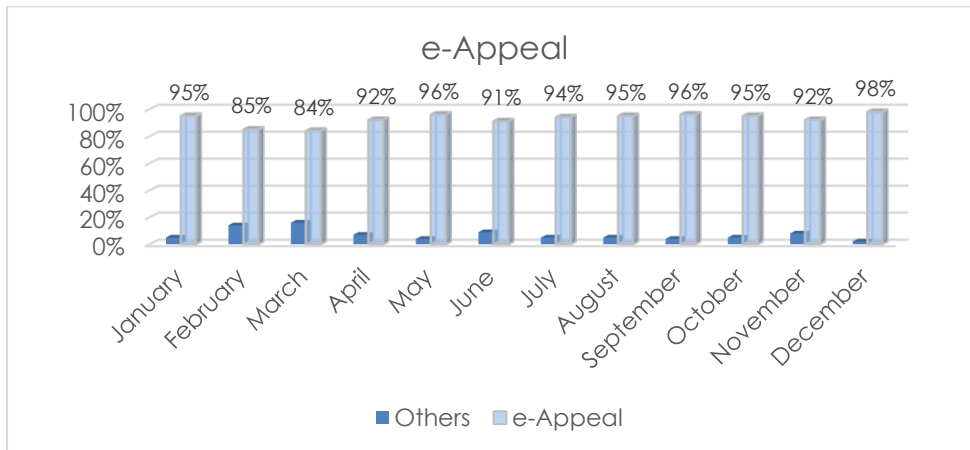
Decision-making indicator	% of cases	Service Standard (months)	Average	2020
<i>Ex-parte</i> decisions notified after reception from the Registry	85%	<6	5.3	Excellence
<i>Inter partes</i> decisions notified after reception from the Registry	85%	<6	5.3	Excellence

Actual deliveries are aligned with the level of service corresponding to 'excellence'.

4.6 Accessibility

The e-Appeal filing system has been extensively used in 2020. It provides for a user-friendly way to

submit an appeal, and it is also an important tool for SMEs.



4.7 Quality initiatives

4.7.1 Boards of Appeal Quality Group

The BoA Quality Group is composed of members from different services across the Boards, coordinated by the Internal Control Correspondent.

The main objectives of this group are contributing to the Office's Quality Management System (QMS), maintaining the ISO 9001 certification and reporting on performance and quality standards. To this end they assess ways of working, update work instructions and identify operational risks. They also handle communication actions as regards all the relevant aspects of the QMS, in particular those oriented to BoA staff.

The group is in charge of identifying issues relating to quality and proposing solutions. It acts as a feedback channel for staff, including the handling of ideas for improvement and the follow-up as regards the implementation of preventive and corrective actions. It ensures the alignment of the BoA's QMS with the EUIPO's strategy. Competent members of the Quality Group carry out internal audits of the Boards on a yearly basis. This action was qualified as a Noteworthy effort in the ISO 9001 external auditors report.

4.7.2 Improving quality of the decisions

Quality Reading

The Boards of Appeal do not have a working language but take decisions directly in the language of the proceedings. Decisions can therefore be drafted in one of the 24 official languages by non-native speakers. In order to control quality, draft decisions can be submitted to KIS for a linguistic and factual check. In addition to improving the linguistic quality for the benefit of stakeholders, quality reading also helps to avoid mistakes that could create a distortion in the machine translation tool because of linguistic ambiguity in the master copy. Among other tools, the BoA Quality Reading Manual and the Case Quotation Manual are used as points of reference.

4.7.3 Registry call back

The Call-back Strategy, adopted in several Departments of the Office, has proven its benefits, contributing to the Office's overall user accessibility by providing a simpler and increased service in terms of 'opening hours' to achieve business hours coherence. All call back messages passed on to the Registry (a total of 97) were answered within the compliance time-limit (95% of the call back within the excellent timeframe) and therefore valuably contributing to the user accessibility service level standard.

4.7.4 Decision templates and standard paragraphs

The Boards of Appeal have been working during 2020 in drafting templates for the different types of decisions, as well as in compiling sets of standard paragraphs and decision trees for the most common grounds (integrating also the standard paragraphs drafted within the Coherence and Consistency Project).

Work is currently under way, in cooperation with the Digital Transformation Department, to integrate those templates and standard paragraphs in a new drafting tool, which is expected to facilitate the work of decision takers and further enhance the quality and consistency of the Boards' decisions.

5. Communication

5.1 Communication Group

The BoA Communication Group has been in operation since the COVID-19 pandemic lockdown. It has focussed its attention on providing support with the Office's efforts in COVID-19 communication actions. This later expanded to providing support for social activities of BoA staff by organising virtual meetings with informative but casual tone.

The Communication Group has been redesigned and the New Terms of Reference were approved at the end of 2020. The objective was to give an overview of the communication priorities for the Boards, enable the Communication Group to bring structure and methodology to the communication needs of the Department, and to contribute with ideas and to support their implementation and communication actions with the help of the creation of a Knowledge Network.

It is the task of the Communication Group to explore, analyse, implement and assess effective channels of communication in order that information flows in an efficient manner between the different stakeholders of the Department, including Presidency, the Management Bodies of each Service, Team Leaders and BoA staff. The group also coordinates its actions with the Communication Service via the Communication Correspondent (CC) and Head of Cabinet of the BoA.

5.2 Communication actions

The BoA Communication Group has set a calendar and a network of Key Information Nodes to support the regular communication actions. The Network of Key information Nodes have been providing the

basic information on which the group prepares the appropriate communication actions.

The Group proceeded with several actions in 2020, among them the following:

- Regular feed of the BoA screens with news on newcomers and HR, promoting an awareness of the Office's news items, BoA statistics and events;
- Circulation of informative emails on the above topics;
- The external promotion of BoA events and actions, as well as decisions of the Praesidium and Referrals through different channels (e.g. Monthly communication templates to User Associations, National Offices, European Institutions);
- Case law articles to Key users via Flash News;
- Social online events for BoA staff;
- Promotion of BoA events through social media;
- Raising awareness on BoA decisions through emails and social media.

5.3 The BoA on social media

44 posts of the Boards of Appeal have been published on social media in 2020:

- 12 on Twitter;
- 32 on LinkedIn.

They received a total of 362 538 hits:

- 32 034 on Twitter;
- 330 504 on LinkedIn.

And 16 903 total engagements (likes + comments + shares + URL links):

- 505 on Twitter;
- 16 398 on LinkedIn.

The BoA posts performed above average in terms of hits and engagements, especially on LinkedIn. The average engagement rate is also very high: 2.8% on Twitter and 4.6% on LinkedIn (anything above the threshold of 2% is considered a good percentage).

6. Legal Developments

6.1 Key Presidium Decisions

During the course of the year, the Presidium engaged in a variety of activities and adopted a number of decisions:

- The Rules of Procedure before the Boards of Appeal (RoP) were approved (please see below under 6.2).
- Four decisions concerning Alternative Dispute Resolution were adopted (assisted negotiation, expert determination, amendment of the decision on conciliation and compilation of a list of experts and facilitators);

- Rules governing oral proceedings held by videoconference were established;
- Recommendations concerning market surveys as evidence in proceedings before the Boards of Appeal were made;
- Provisions regarding representatives from the United Kingdom in ongoing proceedings before the Boards were put into place;
- A case was referred to the Grand Board of Appeal;
- Following the change of the administrative structure of the Office and the integration of the Litigation Service, the Presidium took a new decision on the organisation of the Boards as a whole.

As always, the Presidium took all necessary measures to ensure the proper functioning of the BoA, including the Decision on the Calendar Year Scheme for 2021, laying out the constitution of the Boards following the appointment of three new Members by the Management Board of the EUIPO.

➤ [Decisions of the presidium](#)

6.2 New Rules of Procedure

Following consultation with the User Associations, in February 2020 the Presidium of the Boards of Appeal adopted decision 2020-1 on the Rules of Procedure of the Boards of Appeal. These Rules contain procedural provisions applicable to appeal proceedings concerning both EU trade marks and Registered Community Designs. They compile and codify the existing procedural practice of the Boards of Appeal as governed by the regulations, and general principles of EU law, including the principles of equal treatment and sound administration as interpreted by the General Court and the Court of Justice. In addition, the Rules encompass the relevant specifications laid down in decisions of the Executive Director of the Office, and take into account procedural flows already established internally at the Boards of Appeal.

The Rules of Procedure are intended to be a malleable document, which should be updated following evolution of case law on procedural issues, as well as new procedural practices established at the Office.

➤ [Rules of Procedure before the Boards of Appeal \(RoP\)](#)

As such, the Rules of Procedure provide both our users and our staff with a single comprehensive set of procedural rules which are applied in all proceedings before the Boards of Appeal. The Rules will thus increase the transparency, consistency and efficiency of our decisional practice.

The creation of standard Registry letters is the spin-off effect of the introduction of the RoP that have impacted the existing Registry Templates.

6.3 Data Protection

In 2020 the Boards continued promoting awareness about personal data protection, answering queries from its staff and advising on the data protection aspects of new projects, such as the Oral Hearing and Mediation platform.

The data protection record and privacy statement for mediation were amended to include the new effective dispute resolution mechanisms and a new record and statement were created for processing the data of participants in ADR-SAB meetings. The Working Instructions were also updated to include

links to the corresponding privacy notices.

Finally, two representatives of the BoA regularly participated in meetings of the new Knowledge Circle on Data Protection, which in 2020 has been primarily discussing issues related to international data transfers.

7. External Relations

7.1 Cooperation with international institutions and other Appeal Bodies

7.1.1 Meeting with the Registry of the General Court of the EU

In November 2020, a videoconference was organised, following up the annual visits over six consecutive years and thereby strengthening the cooperation between the two Registries. The conference gave the opportunity for an exchange of experiences on how the Covid-19 pandemic had impacted the work and activities of the Registries.

Further interesting topics on the latest organisational developments of the BoA, the implementation of the General Court reforms, EUIPO ADR Service, in particular on mediation, and statistics including associated forecasts were discussed.

7.1.2 Cooperation with the Registry of the Boards of Appeal of the EPO

The planned visit from the Registry of the European Patent Office in Munich (Germany) to Alicante could not take place due to Covid-19 restrictions. As an alternative solution a videoconference took place in September 2020 in order to continue with the fruitful regular exchange of information on practices and enhancing the interaction between the two Registries. During this meeting a number of topics, common to both Registries, were discussed and benchmarked, such as existing Key Performance Indicators of the BoA, its new Rules of Procedure, first experiences regarding online video oral proceedings at the EPO and the sharing of mutual experiences taken from the COVID-19 pandemic.

7.1.3 Inter-Agency Cooperation

The Inter-Agency Appeal Proceedings Network ('IAAPN') was established in 2018 and belongs to the network of Heads of EU Agencies. It is made up of EU Agencies that have a Board of Appeal or equivalent body. The objectives of the IAAPN are to promote the cooperation, coordination, sharing of knowledge and best practices on appeal proceeding issues of common interest among the EU Agencies' Appeal Bodies. In 2020 IAAPN activities focused on three main topics: *Creation of European Appeal Case Law Identifier (EACLI)*, mainly implementation of the EACLI by the Appeal Bodies, *Quality management of appeals and measurement of decision-making quality*, in particular elaboration of the IAAPN Scoreboard and *Harmonisation of terminology used in the area of appeal proceedings*.

The EACLI is inspired by the existing ECLI but it is designed specifically for appeal proceedings of Appeal Bodies in EU Agencies. The EACLI will assign a unique 'code' to each decision made publicly available by the Appeal Bodies in EU Agencies. The aim of this initiative is to enhance searchability, comparability and interoperability across the various Appeal Bodies' decision databases

and offer to users an effective and user-friendly common search tool which offers them a single point for easy access to decisions of the Appeal Bodies in EU Agencies by using EACLI. In the first phase of this cooperation initiative carried out in 2019-2020, the IAAPN analysed practices of Appeal Bodies with regard to using a case law identifier and discussed and agreed on a structure for the EACLI. The second phase of this initiative will be launched in 2021 and will focus on development of the EACLI common search portal and implementation of EACLI system to the practice applied by the EU Agencies' Appeal Bodies.

During the last two years the IAAPN intensively worked in the area of quality management of appeals and measurement of decision-making quality and developed the IAAPN Scoreboard. The Scoreboard aims to provide comparative data for each year on how selected aspects of quality management are implemented within the IAAPN member Appeal Bodies. The IAAPN selects for each year a specific set of indicators which are considered useful in measuring quality, efficiency and independence aspects in relation to appeal proceedings. These indicators as well as their scope of application within each of the IAAPN Appeal Bodies are presented in the Scoreboard.

The third area in which the IAAPN members cooperate is the common terminology in appeal proceedings. In 2020 the Network in close cooperation with the Centre de Traduction (CdT) selected and validated definitions for 20 terms which will be incorporated in IATE (Interactive Terminology for Europe).

Moreover, the Boards of Appeal conducted, under the 2020 cooperation activities of IAAPN, a written expert's opinion on the harmonisation of the EU Agencies Appeal Bodies. The comparative analysis was made in order to analyse the role of the internal appeal bodies and to identify common best practices within the procedural rules applicable to this form of administrative review and give an opinion on how these practices may be streamlined and harmonised.

In the IAAPN Annual Meeting in December 2020 it was agreed that cooperation in these three areas will continue in 2021. The IAAPN will extend analysis of quality criteria to new common indicators in relation to new areas of common interest and elaborate the 2021 Scoreboard. The technical specification for the EACLI search engine will be drafted and a common strategy for implementing and promoting EACLI will be developed. Furthermore, definitions for an additional 20 IAAPN common terms in appeal proceedings will be prepared and agreed on in the Network.

7.1.4 Meeting with the WIPO Judicial Institute

On 27 November 2020, the Boards of Appeal had their first virtual meeting with the WIPO Judicial Institute and discussed areas of possible future cooperation. Both organisations presented their main missions and cooperation activities. It was agreed that there are areas of common interest, such as exchanging and sharing information and experience of judicial systems and decisions on IP, judicial education activities on IP and the WIPO IP Judges Forum. The concrete next steps will be discussed in 2Q 2021.

7.1.5 Bilateral cooperation with the Singapore Intellectual Property Office

In 2019 the Boards of Appeal visited the Singapore Intellectual Property Office and started close relationships with the Office. Last year a couple of videoconferences were organised in which particular topics on ADRS and trade marks applied in bad faith were discussed and important case law exchanged. Close cooperation will continue in 2021 and the Boards and the Singapore IPO will regularly exchange knowledge, experience and case law.

7.1.6 Bilateral cooperation with the TM5/ID5 Appeal Bodies

In 2020 bilateral cooperation between the Boards and TM5/ID5 Appeal bodies was limited due to Covid-19 pandemic. Some planned activities, such as visits and participation in events were postponed. The Boards met with the Korean IPTAB in March 2020 and discussed topics on trade marks with reputation and well-known marks, mediation and oral hearings. Within the bilateral cooperation with the TM5 Appeal Bodies, representatives of these bodies participated as speakers in the IP Case law conference in October 2020.

7.1.7 Bilateral cooperation with the Shanghai Commercial Mediation Center

The Boards of Appeal of the European Union Intellectual Property Office (BoA EUIPO) and the Shanghai Commercial Mediation Center (SCMC), the foremost neutral professional mediation organisation in China, have cooperated intensively over the last two years with the aim of developing the Co-Mediation Mechanism on Intellectual Property. This Mechanism includes a series of documents: the International Commercial Co-Mediation Rules, the Co-Mediation Agreement, the Confidentiality Statement and the Statement of Co-Mediators. The International Co-Mediation Rules have been recently approved by both the BoA EUIPO and SCMC, together with all supporting documents and came into force on 1 July 2020. This mechanism provides an efficient and convenient way to settle disputes between enterprises in Europe and China in the field of intellectual property. Taking into consideration the diverging cultural backgrounds, the Co-Mediation Mechanism emphasises the standardisation, confidentiality and neutrality of mediation, and fully reflects the broader, deeper and higher level of cooperation in the field of intellectual property dispute settlement between EU-China-based parties.

- [EUIPO BoA / SCMC International Commercial Intellectual Property Co-Mediation Rules](#)

7.2 Cooperation with EU-National IPOs and their Appeal Bodies

7.2.1 European Cooperation and Convergence Projects

CP12 – Evidence in Appeal Proceedings, filing structure, presentation and treatment of confidential evidence

Since March 2019, the Boards of Appeal have actively participated in the CP12 Project ‘Evidence in Trade Mark Appeal Proceedings’. The project aims to identify general principles regarding evidence in trade mark appeal proceedings, in particular, its types, means, sources and identification of relevant dates, as well as its structure and presentation, and the treatment of confidential evidence. In the last two years, the CP12 Working Group met several times with the goal to elaborate the Common Practice. The Common Practice contains a set of non-binding recommendations which have been agreed among the EU IPOs, their Appeal Bodies, User Associations and the EUIPO Boards of Appeal. After three rounds of consultations, the Common Practice was agreed by the Extended Working Group in September 2020 and submitted to the MBBC for its endorsement in November 2020.

European Cooperation Projects (ECPs)

ECPs 2020-2025 were launched in September 2020. The Boards of Appeal’s representatives are

actively engaged in Working Groups of the following ECPs:

ECP2 Improvement and upgrade of EUIPN tools	Major Improvements to Back Office, Front Office, Maximise the use of collaborative work tools
ECP3 New Tools	Decision Desktop, Integrated Multiple Assessment Solution (IMAS)
ECP4 Convergence of practices	Convergence Analysis 2.0 and Maintenance of Common Practices
ECP5 Sustainability of the Network	Support on Project and Quality Management Development and Emerging Technologies Incubator
ECP6 Supporting SMEs	
ECP7 IP Legislative and Practice Repository	IP Legislative and Practice Repository, Implementation of the Trade Mark Directive Tools and Training
ECP8 Collaborative Services	Assistance on Art (8)4 EUTMR IP rights/PEER National Rights

In September 2020 the ECP4: Convergence Analysis 2.0 project recommended the launch of the following two new convergence projects in 2021:

- CP13 – Trade mark applications made in bad faith;
- CP14 – Trade marks contrary to public policy or to accepted principles of morality.

In all the projects mentioned above the Boards of Appeal contribute to the special analysis and discussions conducted in the projects by providing their knowledge and experience in support. The Boards of Appeal bring a particular perspective and expertise to the Working Groups due to their guiding role on Office practice.

7.2.2 EU-National IP Offices.

During previous years the Boards of Appeal developed a strong relationship with EU-National IP Offices and their Appeal Bodies. The Boards regularly visit the National Offices and participate in Regional IP events (conferences, seminars, workshops) organised by them.

In 2020 these activities were reduced due to the Covid-19 pandemic. Only two virtual events were

organised: the Boards of Appeal's visit to the Czech IPO and participation in the online webinar organised by the Polish IPO. The Boards of Appeal look forward to returning to these activities in 2021.

8. Events and Conferences

8.1 IP Case Law Conference

Following the resounding success of the previous two colloquiums in 2016 and 2018, the EUIPO Boards of Appeal, together with EUIPO's International Cooperation and Legal Affairs Department and the EUIPO Academy, hosted the third IP Case Law Conference (IPCLC) on 15 and 16 October 2020. The IPCLC brought together some 50 speakers, amongst them leading intellectual property experts from around the globe, representing a broad spectrum of professional interests. Users of the international IP systems, practitioners, judges from national jurisdictions and from the General Court as well as representatives from the European Commission, the European Parliament and the National Offices gathered to discuss the latest developments in IP case law. The event was designed to be as innovative and user-friendly as possible. Therefore, it was held in an interactive format with ample opportunity for questions from the audience. Approximately 700 participants followed the conference over the two days through two different conference platforms. Each session featured a panel of experts, grouped by conference topic and was led by a panel leader.

The conference focused on some of the live issues currently engaging the IP community, such as:

- The multiple facets of bad faith;
- The interaction between trade marks and human rights;
- Analysing reputation at Member State and EU level;
- How IP rights intersect with new technologies (video games, 3D printing and blockchain);
- The interplay between geographical indications, certification and collective marks.

➤ [IP Case Law Conference](#)

8.2 Tertulias

The first online edition of **Tertulia on Case Law** took place on 5 November 2020 and more than 60 participants from both Alicante and Brussels joined the event and discussed three interesting and popular topics. The first presentation concerned *Trade marks containing names of drugs and terms referring to strains/variants of Cannabis plants*. This was then followed by the presentation on *Conceptual comparison and its value in the global assessment of likelihood of confusion* and lastly the topic on *Substantial aspects of online evidence* was presented.

9. BoA Studies and Experts Opinions

9.1 BoA Studies

The Boards of Appeal traditionally commission a study each year. These studies are key for the

management of the cases and produce benefits not only for BoA decision takers but also serve as a guidance for First Instance decision takers and help to understand their IP portfolio and its value to market stakeholders, being highly valuable for SMEs, which usually do not have easy access to legal advice.

To support the SP 2025, the Boards of Appeal have commissioned a **Feasibility Study on online platforms for Oral Hearings and Mediation** to evaluate the appropriateness of the market offered solutions for allowing the EUIPO to perform Mediation meetings and Oral hearings online.

Moreover, a **study on online evidence** was also launched in 2020 in order to conduct a thorough analysis of all the current existing online evidence, as well as the possible new types of internet related evidence, which could be used in the near future and to evaluate their probative value and their reliability.

9.2 Expert opinions

In the budget of 2020 an amount has been assigned for the Boards of Appeal through the dedicated budget line of ICLAD, in order to be able to organise effectively oral hearings, to hear during those hearings experts and witnesses and also request written opinions by experts as the case may be. The Boards of Appeal have requested two opinions from experts:

- One written **expert's opinion on the harmonization of the EU Agencies Appeal Bodies**, in order to analyse the role of the internal appeal bodies and to identify common best practices within the procedural rules applicable to this form of administrative review and give an opinion on how these practices may be streamlined and harmonized, in the context of the IAAPN mentioned at Inter-Agency Cooperation;
- An **expert's opinion on how to use AI technology** in order to establish a dispute prognosis methodology as well as how an AI tool would allow IP holders and especially SMEs, to make informed decisions on the possible dispute resolution options.

10. Challenges

10.1 IP tool BoA new landscape

Within the process of renewing the appeals management IT tool, the BoA IP Tool project is one of the first priorities of the Office's Strategic Plan 2025. The first phase of this project has been completed in Q4 2020 and will lead to the initial testing of developments in the first semester of 2021. The challenge for the BoA is to continue reviewing and updating the specifications of the next phases in order to tap into all the efficiency gains possible under the new technological solution, including the use of already existing tools in the IP Tool environment such as *draft supporting solutions*, to the extent that they may help to modernise the BoA and make our processes more efficient.

10.2 SME programme and other SP 2025 initiatives

Colleagues from the Boards of Appeal participated in several projects as members of the working groups, e.g. IPPD group. Additional projects are foreseen in 2021 in which the Boards of Appeal will also contribute, such as for instance ECP6 Supporting SMEs. The biggest challenge for 2021 is to

transpose all the projects from the preparation phase into reality and connect with SMEs that might benefit from the initiatives directed to them.

10.3 e-Statement of Grounds

The first phase of the project took place during Q1 2020. Preparatory meetings were held between Boards of Appeal experts and DTD to define the requirements for an e-Statement of Grounds (hereafter e-SoG).

The basic structure of the e-SoG and the appropriate labels were defined, as well as the required information to be retrieved from the back office and the adequate window of time during which the submission of the e-SOG will be allowed, in accordance with the regulation. In the mock-ups provided by DTD, labels, disclaimers and tooltips were revised and the go-ahead for the next steps was given. However, this project is experiencing some delays.