

Rules of procedure for the reporting of violations of SEPAF statutes and / or codes of conduct

Background

In accordance with the SEPAF Statutes (the Statutes) SEPAF shall “foster and maintain ethics and high professional skills” (paragraph 2). The Statutes further state that the observance of these Statutes or industry ethical ethics questions is dealt with by an ethics committee with a specific function and composition (paragraph 8).

The Statutes are supplemented by “Guiding rules of ethics and good professional conduct for authorized patent agents and patent offices” (Code of Ethics). The Statutes provide, among other things, that a member who fails to comply with the Statutes or the Code of Ethics may be subject to disciplinary action (paragraph 9, first subparagraph). The Statutes further describe how notification of violations of the Statutes or the Code of Ethics should be done and what disciplinary measures may be considered. The Statutes and Code of Ethics, however, lack provisions on the rules of procedure that apply to the notification of SEPAF handling.

These procedural rules have been added against this background and to clarify for SEPAF’s members and bodies as well as notifiers about how a notification shall be handled. In order to ensure that the handling of notifications is done promptly, deadlines have been introduced. If there are special reasons, however, deadlines in the Rules of Procedure can be extended.

Rules

1. If a notification of an ethics violation is received by SEPAF’s Board, the Board shall confirm receipt as soon as possible and not later than within one week. The Board shall then consider whether the notification is complete in the manner prescribed in paragraph nine of the Statutes and whether the notification was intended for SEPAF.

If the notification is incomplete, the board shall within two weeks of confirmation of receipt of the notification prescribe to the notifier in accordance with the Statutes that he completes the notification within three weeks. If no supplement is received within the prescribed period or the completion still does not mean that the notification is complete in the manner provided by the Statutes, the notification shall be rejected within a week after the deadline has expired.

If the notification is directed to an organisation which organises individual agents or an authority which authorises individual agents, the notification shall be rejected within two weeks of the acknowledgement of receipt. In connection with the rejection, the board shall then refer the notifier to it or the organisations or authorities that the notifier can approach.

2. If the notification is complete, the board shall within two weeks from the notification send the notification further to the ethics committee for investigation. The board shall also inform the notifier and the member concerned that the notification has been provided to the ethics committee for investigation and give a brief description of the further proceeding of the notification. The member concerned shall at the same time be consulted about the notification in its entirety.

The ethics committee shall, unless there are special reasons, as soon as it has received the notification to give the member concerned an opportunity to respond to the notification.

The notifier and the member concerned shall thereafter have the right to each respond once more unless there are special reasons. Both parties shall always take note of all statements and documents from the other party.

The ethics committee shall provide within two months from when the notification was submitted for investigation a written statement to the Board in the case of violations of the Statutes and / or the Code of Ethics and propose any decision about disciplinary action. The ethics committee is not precluded from submitting such written statement even if a party fails to submit its observations on the notification.

3. Within three weeks of receipt of the ethics committee investigation, the board shall decide on whether any of the disciplinary measures admonition, warning, or expulsion shall be issued or whether the notification shall remain without action. The decision shall be sent to the notifier and to the member concerned of the ethics committee. The decision shall be substantiated and a statement of the ethics committee shall be attached with the decision. Within two days thereafter, the decision or abstract of the decision in anonymised form shall be published on the SEPAF’s home page.

If the board decides on exclusion, the decision of the board shall include a reference to appeal in accordance with paragraph 9 of the last subparagraph in the Statutes. If the decision is not appealed, the exclusion is valid from the day after the time for an appeal has expired.

4. If a timely appeal of the decision by the board about exclusion is made, it will be reviewed by the ordinary General Meeting in accordance with the Statutes. In a decision of the General Meeting on the appeal, the member or members directly affected by the decision do not have the right to vote. From when the Board of Directors decides about exclusion until the General Meeting examines the decision, the Member concerned about the decision has the right to participate in the association's meetings and activities as an observer but shall not have the right to vote. If the appeal is dismissed and the Board's decision stands, the exclusion decision takes effect immediately. In the event that the General Meeting decides that the member is not excluded from the Association, the member shall immediately recover all his rights as a member.