



**SUBJECT:** Fee-related support measures for micro-entities and review of the fee policy

**SUBMITTED BY:** President of the European Patent Office

**ADDRESSEES:**

1. Budget and Finance Committee (for opinion)
2. Committee on Patent Law (for opinion)
3. Administrative Council (for decision)

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## SUMMARY

The Office undertook to examine the appropriateness of its fee structure and possible measures to further assist smaller innovative entities in accessing the European patent system.

Building on the existing measures to support the growth and development of smaller European entities by helping them to obtain patent protection and thus to commercialise their intellectual assets throughout Europe and the world, an additional level of support for certain micro-entities is now proposed to focus specifically on those innovative entities with limited experience of the European patent system and in particular need of financial assistance in a context of unprecedented economic uncertainty.

In order to improve the user friendliness of the European patent system, reduce red tape and facilitate access to it for less experienced users, a simplification of the fee system and measures to promote digitalisation are proposed.

In addition, in order to ensure the financial sustainability of the Organisation, it is necessary to at least partially offset the high rate of inflation and reduced income resulting from the shift in timeliness. The usual biennial inflation adjustment would have resulted in a fee increase of 11%, which together with last year's exceptional 5% increase would have almost fully compensated for the actual inflation of 16.6% over two years. It is proposed that the inflation adjustment of 5% in 2024 as provisionally anticipated in CA/D 1/22 not be realised, and by way of clarification it should also be mentioned that no inflation adjustment will be made for 2025 either. A structural change is proposed whereby administrative and procedural fees would be increased in a targeted manner and the internal renewal fee structure adjusted.

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It is further proposed to extend the reduction of the supplementary European search fee where the international or supplementary international search report was drawn up by a European ISA.

The Administrative Council is requested to approve the draft decision set out in Part II.

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## TABLE OF CONTENTS

<b>Subject</b>	<b>Page</b>
PART I	1
I. STRATEGIC/OPERATIONAL	1
II. RECOMMENDATION	1
III. MAJORITY NEEDED	1
IV. CONTEXT	1
V. ARGUMENTS	3
A. MICRO-ENTITY SUPPORT	3
a) Background	3
b) Micro-entity support: scope and implementation	4
c) Proposed amendments	7
B. SIMPLIFICATION OF THE FEE SCHEDULE AND SUPPORT FOR DIGITALISATION	11
C. LINEAR PROGRESSION OF INTERNAL RENEWAL FEES	16
D. ADJUSTMENT OF CERTAIN PROCEDURAL AND ADMINISTRATIVE FEES	17
E. EXTENSION OF THE SUPPLEMENTARY SEARCH FEE REDUCTION AFTER SEARCH BY EUROPEAN ISA	18
F. OVERVIEW TABLE	18
VI. FINANCIAL IMPLICATIONS	19
VII. LEGAL BASIS	20
VIII. DOCUMENTS CITED	20
IX. RECOMMENDATION FOR PUBLICATION	20
PART II	21
ANNEX 1 EXISTING AND PROPOSED SUPPORT MEASURES AT THE EPO, INCLUDING FEE- AND NON-FEE-RELATED MEASURES	31
ANNEX 2 BACKGROUND INFORMATION ON THE STRUCTURE OF THE FEE SYSTEM AND OVERVIEW OF PROPOSED FEES FOR ABOLITION	32
ANNEX 3 FEES PER APPLICATION FROM FILING TO GRANT	34
ANNEX 4 CURRENT SITUATION – IMPACT OF TIMELINESS AND INFLATION	35
ANNEX 5 PROPOSED IRF AMOUNTS	36

## PART I

### I. **STRATEGIC/OPERATIONAL**

1. Strategic.

### II. **RECOMMENDATION**

2. The Administrative Council is requested to adopt the draft decision in Part II of this document.

### III. **MAJORITY NEEDED**

3. Three-quarters.

### IV. **CONTEXT**

4. In 2020, the Office presented a complete overview of the fee structure and the evolution of related income to the Budget and Finance Committee in document CA/F 27/20. A number of important considerations were put forward with the aim of assisting in the future review of the EPO's fee structure. These included in particular the following aspects: (i) taking into account the evolution from a backlog situation to an office operating at "cruising speed" in terms of workload in the patent grant procedure, leading to an increase in the weight of national renewal fees compared to internal renewal fees; (ii) further simplification of the fee structure; (iii) facilitating the evolution towards a digital environment by steering applicants' behaviour through fee incentives/disincentives; and (iv) strengthening support for certain categories of applicant.
5. Since then, the challenging inflationary environment has led to an exceptional 5% increase in procedural fees and internal renewal fees outside the normal biennial cycle with effect from 1 April 2023 (CA/D 16/22). This high level of inflation is a burden not only for the Office, but also for the innovative economy and in particular for smaller entities, and has therefore prompted consideration of "the adequacy of the current fee structure and possible measures to better support smaller entities in accessing the [European] patent system", as already mentioned in CA/18/20 and announced in document CA/72/22 (paragraphs 11 and 21-23).
6. Contracting states follow different policies and practices in respect of support for smaller entities. While some for example apply fee reductions to certain categories of applicant as a regular feature, others use different mechanisms outside the fee schedule to support innovation and certain economic actors. At European Union (EU) level, the SME Fund<sup>1</sup> supports applicants from EU Member States. As the EPC is not limited to EU Member States, such national or EU frameworks are not equally available for applicants from all EPC contracting states. Also, compared to the other IP5 offices, the EPO's support for certain categories of applicant is rather modest.

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<sup>1</sup> <https://euipo.europa.eu/ohimportal/en/online-services/sme-fund>

7. The Office has thus in 2023 conducted a consultation with delegations from the contracting states and a separate consultation with its users in the framework of the Working Party on Rules of the Standing Advisory Committee before the EPO (SACEPO), on the basis of a non-paper setting out different options. The option recommended by the Office was supported by nearly all stakeholders, and consequently serves as the basis for the policy proposals in this document. Several delegations encouraged the Office to aim for a more limited impact on the Office's budget. In order to achieve this objective without further increases in fees, the Office proposes limiting the micro-entity support to the least experienced applicants. Following the prior consultations with contracting states and SACEPO, the Office has also taken up the suggestion to allow a combination of the proposed micro-entity support and Office-external support measures, such as the SME Fund from the EU, and has removed the proposal to abolish the fee for the awarding of costs, which was mentioned in the non-paper.
8. As a result, the present document on a revised fee policy includes the following proposals:
- targeted support in the form of a 30% fee reduction for certain micro-entities, applicable to all major fees
  - a simplification of the schedule of fees with the removal of rarely used procedural and administrative fees and fee variations linked to filing in certain electronic formats, plus fee incentives to support digitalisation
  - a linear adjustment of internal renewal fees
  - an increase by 4% of procedural and administrative fees, with the exception of the filing fee, the opposition fee and the appeal fee, while the inflation adjustment of 5% in 2024 as provisionally anticipated in CA/D 1/22 will not be implemented and inflation will not be fully compensated for

## V. ARGUMENTS

### A. MICRO-ENTITY SUPPORT

#### a) Background

9. It is a major goal for the Office to support the growth and development of smaller and less experienced European entities by helping them to access the patent system and thus enabling them to commercialise their intellectual assets in Europe and globally. Small and medium-sized enterprises (SMEs) form the backbone of the European economy. In the EU for instance, they constitute 99% of businesses, employing two out of every three employees and producing 57% of the EU's GDP.<sup>2</sup> A joint study by the Office and the EUIPO showed that in high-tech industries, the likelihood of high growth is 110% higher for SMEs that have filed one or more European patent applications and that it is 172% higher in low-tech industries, where a patent filing is a rarer event.<sup>3</sup>
10. Over the years, the Office has been attentive to the situation of these entities and has put in place a number of support measures to provide incentives for "small entities" and to enable them to obtain patent protection at the European level. Small entities include SMEs<sup>4</sup>, natural persons, non-profit organisations, universities and public research organisations. Overall, these measures have a total financial volume of EUR 9.2m (see Annex 1 below), and include:
- A 30% reduction in the filing and examination fees under Rule 6(3) EPC for small entities domiciled in an EPC contracting state with an official language other than English, French or German and for nationals of that state who are resident abroad. This measure was introduced in 2014 in order to compensate for translation costs.
  - Since 2018, a freeze of the appeal fee for small entities in order to promote access to justice. The freeze results in a reduction of approximately 30% on the appeal fee for such entities, in comparison to other applicants.
  - Since the entry into force of the Unitary Patent package in June 2023, a lump sum amount of EUR 500 for holders of a Unitary Patent to compensate for the costs of translating their European patent application (see Article 5 of Regulation (EU) No 1260/2012 and Rules 8-11 of the Rules relating to Unitary Patent Protection). This applies to small entities having a residence or principal place of business in an EU Member State and having filed a European patent

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<sup>2</sup> COM (2018), Annual report on European SMEs. Available at: [https://single-market-economy.ec.europa.eu/smes\\_en](https://single-market-economy.ec.europa.eu/smes_en)

<sup>3</sup> EPO/EUIPO, High-growth firms and intellectual property rights, May 2019. Available at: [https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document\\_library/observatory/documents/reports/2019\\_High-growth\\_firms\\_and\\_intellectual\\_property\\_rights/2019\\_High-growth\\_firms\\_and\\_intellectual\\_property\\_rights.pdf](https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2019_High-growth_firms_and_intellectual_property_rights/2019_High-growth_firms_and_intellectual_property_rights.pdf)

<sup>4</sup> As defined in Article 2(1) of EU Recommendation 2003/361, i.e. small enterprise: <50 employees and ≤EUR 10m turnover or balance sheet sum, not a subsidiary of or owned by a larger enterprise; medium-sized enterprise: <250 employees and ≤EUR 50m turnover or ≤EUR 43m balance sheet sum, not a subsidiary of or owned by a larger enterprise.

application in an official EU language other than English, French or German which resulted in the grant of a European patent for which unitary effect is registered.

- In 2012, in the context of the working agreements on search co-operation concluded with national patent offices, a support scheme in the form of a reduction of the price charged by the Office for carrying out the national search. Since 2020, the resulting price of search as paid to the Office by the national office is 20% of the search fee for a maximum of 400 cases per year and country (CA/51/20). Consequently, small entities are charged a national search fee amounting to a maximum of currently EUR 467.

11. Finally, CA/77/22 announced a new pricing policy for the EPO's new high-quality search tool available to the EPC contracting states. This measure will enable states to provide their national support measures in an even more cost-effective manner. Without prejudice to separate decisions, for the budget impact calculations it is expected that EPO income will be reduced by EUR 4.7m as of 1 January 2025.

**b) Micro-entity support: scope and implementation**

12. In addition to these existing measures, it is now proposed to introduce fee reductions specifically for "micro-entities", irrespective of their nationality and domicile. Micro-entities include micro-enterprises<sup>5</sup>, natural persons, non-profit organisations, universities and public research organisations. Thus micro-entities belong to the existing group of beneficiaries under current Rule 6 EPC (see paragraph 9 above) but exclude enterprises with 10 or more employees and those which have a turnover or balance sheet sum exceeding EUR 2m. The aim of such a targeted measure is to make the European patent system more accessible to those innovative entities that have little or no experience of the European patent system. Micro-entities are in particular need of support, especially in these times of unprecedented economic uncertainty, as they have to deal with drastic and rapid price increases while at the same time mastering the transition to a digital and sustainable economy and making a vital contribution to shaping it thanks to their innovative power. This is even more important at a time when the launch of the Unitary Patent offers numerous opportunities, in particular a cost-effective option for patent protection in Europe.
13. It is therefore proposed that micro-entities be eligible for a 30% reduction on the filing, search, examination, designation and grant fee and on internal renewal fees (IRFs) for European applications and Euro-PCT applications. This is the same percentage reduction as provided to beneficiaries under current Rule 6(3) EPC. However, the proposed reduction applies to all major procedural fees and IRFs, meaning the support per application and the financial impact are higher (see Annexes 1 and 3). This proposed micro-entity support can be combined with existing reductions (see also paragraph 24 below and Annex 3).

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<sup>5</sup> As defined in Article 2(3) of EU Recommendation 2003/361, i.e. an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2m.

14. Some of these micro-entities make intensive use of the European patent system, sometimes filing hundreds of applications. In order to ensure that the support measures actually reach the target group of beneficiaries, i.e. those with little or no experience of the European patent system, it is proposed to support only European patent applications or international applications that have entered the European phase (Euro-PCT applications) if the micro-entity has filed less than five such applications in the five years preceding the date of filing of the European patent application concerned or the date of entry into the European phase of the Euro-PCT application concerned. The relevant date for the previous applications is again either the date of filing in the case of a European patent application or the date of entry into the European phase in the case of a Euro-PCT application. If five or more previous applications fall within the five-year period, the micro-entity would not be eligible for support. It is expected that the introduction of such a cap will reduce the overall proportion of eligible applications from micro-entities from around 10% to around 4%, with an approximate 4:1 ratio between applicants from EPC contracting states and non-contracting states. It is proposed that the fee reductions be made available on the basis of a self-declaration by the applicant to be filed at the latest on the date of the first reduced payment stating that the relevant criteria are fulfilled, similar to the self-declaration system applicable to the fee reductions under current Rule 6(3) EPC. If there are multiple applicants, each one of them must fulfil the eligibility criteria.
15. The cap on eligible applications per applicant will be checked systematically by the department in charge when eligibility is claimed. If an application or patent is transferred, it is considered to belong to the new owner both for future payments and for the purpose of the cap.
16. Checks on qualification as a micro-entity would be performed on a random basis, as well as when there are reasonable grounds to suspect that an erroneous or false declaration has been made. In the case of reasonable doubt as to the veracity of a self-declaration by the applicant, the Office may require evidence. The applicant must inform the EPO of any change of its micro-entity status at the latest at the time the fee concerned is paid, e.g. following a transfer of rights to a larger entity or when it no longer qualifies as a micro-entity. The entitlement to the reduction depends on the status of the applicant or patent owner at the moment of payment of the fee.
17. If it is found that an incorrect declaration has been made, the unjustifiably reduced fee will be deemed not to have been paid and the application will be deemed withdrawn, with the possibility for the applicant to request further processing, if available, under Article 121 and Rule 135 EPC, similarly to the existing practice adopted by the Office under Rule 6 EPC (see OJ notice dated 10 January 2014 concerning amended Rule 6 EPC and Article 14(1) RFees, OJ EPO 2014, A23).



18. Regarding international applications filed under the Patent Cooperation Treaty (PCT) and the support measure related to the search fee, a reduction of the international search fee would in practice not be possible to implement in the international phase since, pursuant to Rule 16.1(b) PCT, the international search fee is collected by the competent receiving Office on behalf of the EPO acting as International Searching Authority (ISA). Moreover, limiting the support measure to those applications entering the European phase provides a stronger European focus and incentivises European protection. It is therefore proposed that for international applications searched by an ISA other than the EPO, the fee reduction concern the supplementary European search fee instead of the international search fee charged by the ISA. For international applications where the EPO acted as ISA, however, the European search is dispensed with. To ensure alignment between the EP and PCT procedures, it is thus proposed that the support measure concerning the international search fee be restricted to those applications entering the European phase, and that a reduction be based on the international search fee but apply to the amount of the examination fee. This means that for PCT applications searched by the EPO, the examination fee would be reduced twice, first by a share of the examination fee, and then, in addition, by a share of the effectively paid international search fee, i.e. the search fee net of potential refunds or reductions.
19. It is proposed to review the effectiveness of the support measures after five years, based on metrics to be further determined and which may include the number and categories of beneficiaries, the number of grants and refusals, applicants' nationalities, the results of the random verifications and/or a possible survey of the beneficiaries.
20. Concerning legal implementation of this measure, it is proposed to amend the Implementing Regulations to the EPC (see Article 1 of the draft decision in Part II). Certain provisions of Rule 6 EPC would be moved to a new Rule 7a which determines the entitlement to fee reductions, as well as a new Rule 7b laying down the formal requirements for such fee reductions.
21. It is therefore suggested to create a new Rule 7a EPC entitled "Reduction of fees", which will include the following detailed elements:
  - the reduction of the filing and examination fee for small entities such as SMEs having their residence or principal place of business in a contracting state which has a language other than English, French or German as an official language, currently covered by Rule 6(3) EPC
  - the proposed reduction of the filing, European or supplementary European search, examination, designation and grant fee and of internal renewal fees for micro-entities
  - the proposed further reduction of the examination fee by a share of the effective international search fee, for cases where the EPO acted as ISA
  - a provision stating that the eligibility criteria are to be fulfilled on the date on which payment is made and that all co-applicants must fulfil the eligibility

requirements in order for the application to be subject to fee reductions, currently covered in Rule 6(7) EPC

22. The definitions of the entities eligible for fee reductions as currently provided in Rule 6(4) and (5) EPC and OJ EPO 2014, A23, and in the notice from the EPO dated 18 December 2017 (OJ EPO 2018, A5), will be collated and provided in a single notice from the EPO.
23. Furthermore, a new Rule 7b EPC entitled "Declaration of eligibility for a reduction of fees" will lay down the requirement of the self-declaration and the possibility for the Office to require evidence in the event of doubt as to the declaration's veracity, and provide for the legal consequences of filing an incorrect declaration.
24. As a consequence of these proposals, Rule 6(3) to (7) EPC will be deleted.
25. The percentage of the fee reductions will be provided for in an amended Article 14 RFees entitled "Reduction of fees" (see Article 3 of the draft decision in Part II). A new paragraph 3 has been added to lay down the principle that, where the application is subject to several fee reductions, these are calculated sequentially. This is illustrated by the following hypothetical example: if a fee of EUR 1 000 is reduced by 30% to EUR 700 under Rule 7a(1), and a further reduction of 30% is applied under Rule 7a(3), the second reduction would be calculated on the basis of EUR 700, thereby resulting in EUR 490, which means that both reductions taken together would result in a reduction of 51%, i.e. from EUR 1 000 to EUR 490. In Annex 3 some possible combinations of reductions are indicated.
26. The reference to Rule 6 in the schedule of fees in Article 2 RFees concerning the amount of the appeal fee also needs to be replaced with a reference to Rule 7a (see Article 2 of the draft decision in Part II).

**c) Proposed amendments**

27. It is proposed to amend Rule 6 of the Implementing Regulations to the EPC as follows:

Current version	Proposed amendment
<p style="text-align: center;"><b>Rule 6</b></p> <p style="text-align: center;"><b>Filing of translations and reduction of fees</b></p> <p>(1) A translation under Article 14, paragraph 2, shall be filed within two months of filing the European patent application.</p> <p>(2) A translation under Article 14, paragraph 4, shall be filed within one month of filing the document. This shall also apply to requests under Article 105a. Where the document is a notice of</p>	<p style="text-align: center;"><b>Rule 6</b></p> <p style="text-align: center;"><b>Filing of translations and <del>reduction of fees</del></b></p> <p>(1) <i>Unchanged</i></p> <p>(2) <i>Unchanged</i></p>

Current version	Proposed amendment
<p>opposition or appeal, or a statement of grounds of appeal, or a petition for review, the translation may be filed within the period for filing such a notice or statement or petition, if that period expires later.</p> <p>(3) Where a person referred to in Article 14, paragraph 4, files a European patent application or a request for examination in a language admitted in that provision, the filing fee or examination fee shall be reduced in accordance with the Rules relating to Fees.</p> <p>(4) The reduction referred to in paragraph 3 shall be available for:</p> <p>(a) small and medium-sized enterprises;</p> <p>(b) natural persons; or</p> <p>(c) non-profit organisations, universities or public research organisations.</p> <p>(5) For the purposes of paragraph 4(a), Commission recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises as published in the Official Journal of the European Union L 124, p. 36 of 20 May 2003 shall apply.</p> <p>(6) An applicant wishing to benefit from the fee reduction referred to in paragraph 3 shall declare himself to be an entity or a natural person within the meaning of paragraph 4. In case of reasonable doubt as to the veracity of such declaration, the Office may require evidence.</p> <p>(7) In case of multiple applicants, each applicant shall be an entity or a natural person within the meaning of paragraph 4.</p>	<p>(3) <i>Deleted – incorporated in new Rule 7a(1)</i></p> <p>(4) <i>Deleted – incorporated in new Rule 7a(2)</i></p> <p>(5) <i>Deleted – updated content provided as notice from the EPO</i></p> <p>(6) <i>Deleted – first sentence incorporated in new Rule 7b(1) and second sentence incorporated in new Rule 7b(3)</i></p> <p>(7) <i>Deleted – incorporated in new Rule 7a(5)</i></p>

28. It is proposed to add two new rules, Rules 7a and 7b, to the Implementing Regulations to the EPC:

<b>Proposed amendment</b>
<b>Rule 7a Reduction of fees</b>
(1) Where a person referred to in Article 14, paragraph 4, files a European patent application or a request for examination in a language admitted in that provision, the filing fee or examination fee shall be reduced in accordance with the Rules relating to Fees.
(2) The reduction of fees referred to in paragraph 1 shall be available for: <ul style="list-style-type: none"> <li>(a) microenterprises;</li> <li>(b) small and medium-sized enterprises;</li> <li>(c) natural persons;</li> <li>(d) non-profit organisations, universities or public research organisations.</li> </ul>
(3) Where a microenterprise, natural person, non-profit organisation, university or public research organisation files a European patent application or, in respect of an international application, performs the acts referred to in Rule 159, the following fees shall be reduced in accordance with the Rules relating to Fees: <ul style="list-style-type: none"> <li>(a) filing fee;</li> <li>(b) fee for a European or supplementary European search;</li> <li>(c) examination fee, and in addition the previously paid international search fee where the European Patent Office acted as International Searching Authority;</li> <li>(d) designation fee;</li> <li>(e) fee for grant;</li> <li>(f) renewal fees for the European patent application</li> </ul>
(4) The reduction of fees referred to in paragraph 3 shall not be available where the same person has filed five or more European patent applications or Euro-PCT applications within a period of five years preceding <ul style="list-style-type: none"> <li>- the date of filing of the European patent application concerned or</li> <li>- the date of entry into the European phase of the Euro-PCT application concerned.</li> </ul> The relevant date for previous applications shall be the date of filing in the case of a European patent application or the date of entry into the European phase in the case of a Euro-PCT application.
(5) In the case of multiple persons filing a European patent application or a Euro-PCT application, the reduction under paragraph 1 or 3 shall be available only if each applicant fulfils the applicable eligibility criteria.
(6) The eligibility criteria laid down in paragraphs 1 to 3 shall be fulfilled on the date of the payment

of the fee concerned.

<b>Proposed amendment</b>
<b>Rule 7b</b> <b>Declaration of eligibility for a reduction of fees</b>
(1) Applicants wishing to benefit from a reduction of fees under Rule 7a, paragraph 1 or 3, shall declare themselves to be a person within the meaning of Rule 7a, paragraph 2 or 3, at the latest when the first reduced payment is made.
(2) Applicants shall inform the European Patent Office of any change of status affecting eligibility for a reduction of fees at the latest when the fee concerned is paid.
(3) In the event of reasonable doubt as to the veracity of the declaration within the meaning of paragraph 1 or, subsequently, as to the applicant's eligibility for a reduction of fees, the European Patent Office may request evidence.
(4) Should it become apparent that an incorrect declaration has been filed or the European Patent Office has not been informed of a change of status in accordance with paragraph 2 and a reduced payment is made, the fee shall be deemed not to have been paid and the application shall be deemed to be withdrawn.

29. It is proposed to amend Article 14 of the Rules relating to Fees (RFees) as follows:

<b>Current version</b>	<b>Proposed amendment</b>
<b>Article 14</b> <b>Reduction of fees</b>	<b>Article 14</b> <b>Reduction of fees</b>
(1) The reduction laid down in Rule 6, paragraph 3, of the Convention shall be 30% of the filing fee or examination fee.	(1) The reduction laid down in <del>Rule 6, paragraph 3</del> Rule 7a, paragraphs 1 and 3, of the Convention shall be 30% of the relevant fee <del>the filing fee or examination fee</del> .
(2) Where the European Patent Office has drawn up an international preliminary examination report, the examination fee shall be reduced by 75%. If the report was established on certain parts of the international application in accordance with Article 34, paragraph 3(c), PCT, the fee shall not be reduced if subject-matter not covered by the report is to be	(2) <i>Unchanged</i>

Current version	Proposed amendment
examined.	
	(3) If more than one reduction applies to the same fee for the same application, the reductions shall be calculated sequentially.

## B. SIMPLIFICATION OF THE FEE SCHEDULE AND SUPPORT FOR DIGITALISATION

30. In order to further improve the user friendliness of the EPO's fee system and, at the same time, reduce red tape which can have a deterrent effect, especially for small entities, it is proposed to abolish a significant number of rarely used fees. This measure will have the effect of simplifying the fee structure, making it easier to navigate, especially for inexperienced users. This also corresponds to the recent Office policy to reduce the number of its administrative fees and to carry out a regular review to assess whether certain fees can be merged or abolished when they are no longer justified (see decision of the President dated 20 February 2019, OJ EPO 2019, A14).
31. It is thus proposed to abolish the following procedural and administrative fees:
- fee for conservation of evidence referred to in Rule 123(3) EPC
  - fee for publishing a new specification referred to in Rule 82(2) and Rule 95(3)
  - surcharge for late performance of the acts required to maintain a European patent in amended form referred to in Rule 82(3) and Rule 95(3)
  - administrative fee for the communication of information contained in the files referred to in Rule 146 EPC
  - fee for additional copies of the documents cited in the European search report
32. It is also proposed to set the conversion fee to zero. Contrary to the other fees mentioned above, the conversion fee appears in Article 135(3) EPC and therefore cannot be abolished.
33. These measures would amount to a de facto abolition of almost 20% of all fees.
34. Furthermore, in order to incentivise applicants to use MyEPO Portfolio (the new, secure, web-based online service for parties to proceedings before the EPO) and thereby help the Office avoid unnecessary administrative work whilst ensuring that registers are kept up to date, it is proposed to set the following fees to zero for MyEPO users:
- fee for registration of a transfer

- fee for registration or cancellation of a licence or other right
- fee for a certified copy (application, priority document, patent certificate, other documents)

35. Setting the fees for the registration of a transfer and for the registration or cancellation of a licence or other right to zero would require an amendment to Rules 22 and 23 EPC. The necessary amendments will be proposed in a separate document. For applicants who do not use the digital facilities, the fees will remain in place.
36. Finally, it is proposed to abolish the variations of the fees for filing, grant and transmittal depending on a character-coded format. These special fee levels were introduced in December 2017 (see document CA/D 17/17) and it was decided in 2019 that they would be applicable as from a date to be set by the President of the Office as a consequence of the delay in the technical implementation of XML filing (CA/D 11/18). The main reason for the introduction of these fee reductions at the time was to create an incentive for users to file in DOCX format. However, in view of the continued digital transformation of the patent granting process at the Office, these fee reductions were never applied and consequently are no longer justified.
37. The proposed measures regarding procedural fees are to be implemented by way of amendments to the relevant provisions of the Implementing Regulations to the EPC as detailed under paragraphs 38 to 40 below, and by amending the schedule of fees set out in Article 2 RFees (see Articles 1 and 2 of the draft decision in Part II of this document).
38. It is proposed to amend Rule 82 of the Implementing Regulations to the EPC as follows:

Current version	Proposed amendment
<b>Rule 82 Maintenance of the European patent in amended form</b>	<b>Rule 82 Maintenance of the European patent in amended form</b>
(1) Before the Opposition Division decides to maintain the European patent as amended, it shall inform the parties of the text in which it intends to maintain the patent, and shall invite them to file their observations within two months if they disapprove of that text.	(1) <i>Unchanged</i>
(2) If a party disapproves of the text communicated by the Opposition Division, examination of the opposition may be	(2) If a party disapproves of the text communicated by the Opposition Division, examination of the opposition may be

Current version	Proposed amendment
<p>continued. Otherwise, the Opposition Division shall, on expiry of the period under paragraph 1, invite the proprietor of the patent to pay the prescribed fee and to file a translation of any amended claims in the official languages of the European Patent Office other than the language of the proceedings, within a period of three months. Where, in oral proceedings, decisions under Article 106, paragraph 2, or Article 111, paragraph 2, have been based on documents not complying with the applicable requirements prescribed by the President of the European Patent Office under Rule 49, paragraph 2, the proprietor of the patent shall be invited to file the amended text in a form compliant with those requirements within the three-month period.</p>	<p>continued. Otherwise, the Opposition Division shall, on expiry of the period under paragraph 1, invite the proprietor of the patent <del>to pay the prescribed fee and</del> to file a translation of any amended claims in the official languages of the European Patent Office other than the language of the proceedings, within a period of three months. Where, in oral proceedings, decisions under Article 106, paragraph 2, or Article 111, paragraph 2, have been based on documents not complying with the applicable requirements prescribed by the President of the European Patent Office under Rule 49, paragraph 2, the proprietor of the patent shall be invited to file the amended text in a form compliant with those requirements within the three-month period.</p>
<p>(3) If the acts required under paragraph 2 are not performed in due time, they may still be performed within two months of a communication concerning the failure to observe the time limit, provided that a surcharge is paid within this period. Otherwise, the patent shall be revoked</p>	<p>(3) If the acts required under paragraph 2 are not performed in due time, they may still be performed within two months of a communication concerning the failure to observe the time limit, <del>provided that a surcharge is paid within this period.</del> Otherwise, the patent shall be revoked.</p>
<p>(4) The decision to maintain the European patent as amended shall state which text of the patent forms the basis for the decision.</p>	<p>(4) <i>Unchanged</i></p>

39. It is proposed to amend Rule 95(3) of the Implementing Regulations to the EPC:

Current version	Proposed amendment
<p style="text-align: center;"><b>Rule 95</b> <b>Decision on the request</b></p>	<p style="text-align: center;"><b>Rule 95</b> <b>Decision on the request</b></p>
<p>(1) If a request for revocation is admissible, the Examining Division shall revoke the patent and communicate this to the requester.</p>	<p>(1) <i>Unchanged</i></p>
<p>(2) If a request for limitation is admissible, the Examining Division shall examine whether the amended claims constitute a limitation vis-à-vis the claims as granted or amended in opposition or limitation proceedings and comply with Article 84 and Article 123, paragraphs 2 and 3.</p>	<p>(2) <i>Unchanged</i></p>



Current version	Proposed amendment
If the request does not comply with these requirements, the Examining Division shall give the requester one opportunity to correct any deficiencies noted, and to amend the claims and, where appropriate, the description and drawings, within a period to be specified.	
(3) If a request for limitation is allowable under paragraph 2, the Examining Division shall communicate this to the requester and invite him to pay the prescribed fee and to file a translation of the amended claims in the official languages of the European Patent Office other than the language of the proceedings, within a period of three months; Rule 82, paragraph 3, first sentence, shall apply mutatis mutandis. If the requester performs these acts in due time, the Examining Division shall limit the patent.	(3) If a request for limitation is allowable under paragraph 2, the Examining Division shall communicate this to the requester and invite him <del>to pay the prescribed fee and</del> to file a translation of the amended claims in the official languages of the European Patent Office other than the language of the proceedings, within a period of three months; Rule 82, paragraph 3, first sentence, shall apply mutatis mutandis. If the requester performs these acts in due time, the Examining Division shall limit the patent.
(4) If the requester does not respond in due time to the communication issued under paragraph 2, or if the request for limitation is not allowable, or if the requester fails to perform the acts required under paragraph 3 in due time, the Examining Division shall reject the request.	(4) <i>Unchanged</i>

40. It is proposed to delete Rule 123(3) of the Implementing Regulations to the EPC:

Current version	Proposed amendment
<b>Rule 123</b> <b>Conservation of evidence</b>	<b>Rule 123</b> <b>Conservation of evidence</b>
(1) On request, the European Patent Office may, without delay, take measures to conserve evidence of facts liable to affect a decision which it may be called upon to take with regard to a European patent application or a European patent, where there is reason to fear that it might subsequently become more difficult or even impossible to take evidence. The date on which the measures are to be taken shall be communicated to the applicant for or proprietor of the patent in sufficient time to allow him to attend. He may ask relevant questions.	(1) <i>Unchanged</i>

Current version	Proposed amendment
<p>(2) The request shall contain:</p> <p>(a) particulars of the requester as provided in Rule 41, paragraph 2(c);</p> <p>(b) sufficient identification of the European patent application or European patent in question;</p> <p>(c) an indication of the facts in respect of which evidence is to be taken;</p> <p>(d) particulars of the means of giving or obtaining evidence;</p> <p>(e) a statement establishing a prima facie case for fearing that it might subsequently become more difficult or impossible to take evidence.</p>	<p>(2) <i>Unchanged</i></p>
<p>(3) The request shall not be deemed to have been filed until the prescribed fee has been paid.</p>	<p><del>(3) The request shall not be deemed to have been filed until the prescribed fee has been paid.</del></p>
<p>(4) The decision on the request and any resulting taking of evidence shall be incumbent upon the department of the European Patent Office which would have to take the decision liable to be affected by the facts to be established. The provisions with regard to the taking of evidence in proceedings before the European Patent Office shall apply.</p>	<p>(3) <i>Unchanged</i></p>

41. It is proposed to amend Rule 146, first sentence, of the Implementing Regulations to the EPC as follows:

Current text	Proposed amendment
<p style="text-align: center;"><b>Rule 146</b> <b>Communication of information contained in the files</b></p>	<p style="text-align: center;"><b>Rule 146</b> <b>Communication of information contained in the files</b></p>
<p>Subject to the restrictions laid down in Article 128, paragraphs 1 to 4, and in Rule 144, the European Patent Office may, upon request, communicate information concerning any file relating to a European patent application or</p>	<p>Subject to the restrictions laid down in Article 128, paragraphs 1 to 4, and in Rule 144, the European Patent Office may, upon request, communicate information concerning any file relating to a European patent application or</p>

Current text	Proposed amendment
<p>European patent, subject to the payment of an administrative fee. However, the European Patent Office may refer to the option of file inspection where it deems this to be appropriate in view of the quantity of information to be supplied.</p>	<p>European patent, <del>subject to the payment of an administrative fee</del>. However, the European Patent Office may refer to the option of file inspection where it deems this to be appropriate in view of the quantity of information to be supplied.</p>

42. Concerning the amount of the administrative fees provided for in Rules 22, 23, 54 and 74 of the Implementing Regulations to the EPC and the fee for additional copies of the documents cited in search reports (OJ EPO 2023, A3), these amounts are to be laid down by the President of the Office in accordance with Article 3 RFees.

### C. LINEAR PROGRESSION OF INTERNAL RENEWAL FEES

43. It is proposed to adjust the structure of internal renewal fees (IRFs) by implementing a linear increase from EUR 690 for year 3 to EUR 1 775 in year 10, then a constant level of EUR 1 775 until year 20.
44. Pursuant to Rule 51 EPC, renewal fees are due to the Office for a European patent application in respect of the third and each subsequent year, calculated from the date of filing. After grant of a European patent, renewal fees are due to the industrial property office of each of the designated states in which the patent owner has validated the European patent. Each EPC contracting state is competent to determine the amounts of these national renewal fees (NRFs). The EPO receives 50% of the NRF amounts.
45. There has been a shift in revenue streams, in particular thanks to the efficiency gains from the Strategic Plan 2023, as the Office has moved away from a backlog situation to an office operating at "cruising speed".
46. This situation has led to a reduction in the Office's income, while at the same time applicants have benefitted from earlier grants and reduced costs. The average age of the EPO's stock of pending applications can be visualised by the average year for which IRFs were paid (see Annex 4). Since 2014, the average age of a patent application for which IRFs are paid has decreased by 0.9 years. Hence, a typical case that previously generated IRFs for years 3 to 6 now generates IRFs for years 3 to 5 only.
47. To take a concrete example, assuming post-grant validation in the four countries where European patents are most validated, the total amount of NRFs in these countries for year six is EUR 420. The Office's 50% share of NRFs amounts to EUR 210 compared to an IRF amount of EUR 1 180 for year six.
- For the patentee, the cost has fallen from EUR 1 180 to EUR 420, a reduction of EUR 760 per patent. This is in addition to the benefits of having a patent granted earlier.

- For the Office, income has fallen from EUR 1 180 to EUR 210, a reduction of EUR 970 per patent.

48. The number of grants has risen from an average of 66 400 per year in 2012-2015 to 116 700 in 2016-2019 and is expected to be 105 100 for 2020-2023. Due to this increase in the volume of granted patents, a part of the loss of income is compensated for by NRFs. However, this implies a higher dependence on EPC contracting states, and their policy decisions on the respective NRFs.
49. The present review of the fee policy provides an opportunity to revisit the structure of IRF annuities as illustrated in Annex 5 in order to ensure the Office's financial sustainability and the financing of the proposed support and simplification measures mentioned under points A and B above.
50. The proposed new IRF amounts, i.e. the proposed changes to Article 2 RFees, are specified in Article 2 of the draft decision in Part II. The current IRF curve is replaced with a consistent linear progression until year 10, which follows the trend for NRFs in a number of national offices, as well as the approach applied by the EPO until 1984.

#### **D. ADJUSTMENT OF CERTAIN PROCEDURAL AND ADMINISTRATIVE FEES**

51. It is proposed to increase all procedural and administrative fees by 4% with the exception of the filing fee, the opposition fee and the appeal fee, which will remain unchanged in order to reflect the sufficient cost coverage of filing and to maintain affordable access to justice in particular for smaller entities. For amounts below EUR 50, fees are rounded to full euro amounts. For higher fees, amounts are rounded to multiples of EUR 5.
52. The 4% increase will also apply to fees, prices and expenses whose amounts are laid down by the President of the Office, as referred to in Article 3 RFees (see the President's latest decision dated 17 January 2023, OJ EPO 2023, A3).
53. This fee increase aims to reflect the ongoing inflationary environment. However, the proposed adjustment is below the initially anticipated 5% adjustment (see document CA/D 1/22) and far below the actual inflation rate. Inflation in the period June 2021 to June 2023 was 16.6%, much higher than the effect of the 5% exceptional procedural fee increase as of 1 April 2023 and the proposed further increase of these fees by 4%. Not implementing such a general inflation adjustment benefits applicants and is made possible by factors including efficiency gains by the Office.
54. The proposed procedural fee increases are specified in Article 2 of the draft decision in Part II. The proposed administrative fee increase will be laid down by the President of the Office in accordance with Article 3 RFees.

## E. EXTENSION OF THE SUPPLEMENTARY SEARCH FEE REDUCTION AFTER SEARCH BY EUROPEAN ISA

55. The reduction in the supplementary European search fee charged for Euro-PCT applications where the international search report was drawn up by a European ISA currently applies until 31 March 2024; see CA/80/19 and CA/D 16/22. It is proposed to extend this reduction by four years, which covers two biennial fee adjustment periods.
56. As in the past, the amount of the reduction should be adjusted to provide equality of treatment in terms of fees on entry into the European phase between applicants who have selected the EPO as ISA and those who have selected another ISA in Europe. To continue this practice, it is therefore proposed that:
- the reduction be extended for a four-year period ending on 31 March 2028
  - the amount of the applicable reduction be set to EUR 1 300
  - the reduction also apply to cases where the European ISA has drawn up a supplementary international search report (SISR)
57. The annual cost of the reduction scheme is estimated at EUR 2.3m.
58. The extension of the supplementary search fee reduction is specified in Article 4 of the draft decision in Part II of this document.

## F. OVERVIEW TABLE

59. The following table provides a brief overview of the proposal:

Fee policy	Details	Legal basis
Micro-entity support	30% reduction on the main procedural fees and internal renewal fees. Beneficiaries: natural persons, microenterprises, universities, public research organisations and non-profit organisations. Excludes applicants filing frequently at the EPO. Allows combination with existing reductions.	New Rules 7a and 7b and Art. 14 RFees. Integration of Rule 6(3)-(7) in the new legal basis
Simplification	Abolition of six rarely used fees and fee variations based on character-coded format. Waiving of fees for MyEPO self-service.	Rules 82, 95, 123, 146, Art. 2 and 3 RFees
Internal renewal fees	Adjustment of internal renewal fees to partially compensate for shorter examination periods until grant, linear curve.	Art. 2 RFees
Procedural and admin. fees	Adjustment by 4% (excluding the filing, opposition and appeal fees).	Art. 2 RFees incl. adaptation for appeal fee

Fee policy	Details	Legal basis
European ISA	Extension, by an additional four years, of the reduction in the supplementary European search fee after search by a European ISA.	Art. 153(7)

## VI. FINANCIAL IMPLICATIONS

60. The estimated financial impact of the proposed measures, broken down by the individual elements, is shown in the following table:

Financial impact of the proposed measures (IFRS view, in EUR m)	2024	2025
Micro-entity support measures	-9.5	-14.4
Measures relating to the simplification of the fee system	-1.6	-2.2
Measures relating to the adjustment of certain procedural and admin. fees	20.1	30.0
Measures relating to the adjustment of the IRF structure	52.1	73.1
Fee waiver for making the new search tool available to contracting states	0	-4.7
Reduction of the supplementary European search fee (European ISA)	-2.3	-2.3
<b>Total</b>	<b>58.8</b>	<b>79.5</b>

Financial impact of the proposed measures (cash view, in EUR m)	2024	2025
Micro-entity support measures	-12.0	-16.6
Measures relating to the simplification of the fee system	-1.6	-2.2
Measures relating to the adjustment of certain procedural and admin. fees	25.5	34.6
Measures relating to the adjustment of the IRF structure	52.1	73.1
Fee waiver for making the new search tool available to contracting states	0	-4.7
Reduction of the supplementary European search fee (European ISA)	-2.3	-2.3
<b>Total</b>	<b>61.7</b>	<b>81.9</b>

61. As shown in the table, the focus of the fee increase is on internal renewal fees (IRFs). However, this increase merely readjusts EPO income per application to the 2016 level without any compensation for inflation since then, as illustrated in Annex 4.

62. The newly introduced micro-entity support, which complements previous support schemes for small entities, is valued at EUR 16.6m cash in the first full year in which the new policy applies, significantly exceeding the previous support of EUR 9.2m.

63. The total cash financial impact of the proposed measures in 2024 and 2025 is estimated at EUR 61.7m and EUR 81.9m, with its full-year impact being reached in 2025 after its introduction as at 1 April 2024. For reference, the financial impact of the provisionally anticipated 5% fee adjustment in 2024 (CA/D 1/22) amounts to EUR 59.5m in 2024 and EUR 81.6m in 2025. As these results are very similar, the impact is seen as equivalent to a 5% fee adjustment and is considered to have a net zero budget impact.
64. The combined impact of the 5% increase as of 1 April 2023 and the increase equivalent to 5% under this proposed fee policy covers only a fraction of the inflation of 16.6% between June 2021 and June 2023.
65. It should be borne in mind that the fee adjustment applies to a part of the EPO's income only, and that, although IRFs would increase most, the impact of timeliness on IRFs amounts to a reduction in income for the EPO in addition to the impact of inflation on expenditure.
66. The European Central Bank foresees a return to more moderate inflation in the coming years. The Office intends to resume the usual biennial adjustment cycle in 2026. There will be no inflation adjustment in 2025.

**VII. LEGAL BASIS**

67. Article 33(2)(d) EPC, Article 153(7) EPC

**VIII. DOCUMENTS CITED**

68. CA/72/22, CA/D 1/22, CA/D 16/22, CA/51/20, CA/F 27/20, CA/80/19, CA/D 11/18, CA/D 17/17

**IX. RECOMMENDATION FOR PUBLICATION**

69. Yes

## PART II

### Draft

DECISION OF THE ADMINISTRATIVE COUNCIL  
of [date of decision]  
amending the Implementing Regulations to the European Patent  
Convention and the Rules relating to Fees,  
and adjusting the amount of the reduction in the fee for  
the supplementary European search where the  
international or supplementary international search  
report was drawn up by one of the European  
International Searching Authorities

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THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention (hereinafter referred to as "EPC") and in particular the provisions of Article 33(2)(d) and (e) thereof,

On a proposal from the President of the European Patent Office,

Having regard to the opinion of the Budget and Finance Committee and the Committee on Patent Law,

HAS DECIDED AS FOLLOWS:

#### Article 1

The Implementing Regulations to the EPC are amended as follows:

- 1. Paragraphs 3 to 7 of Rule 6 are deleted.**
- 2. The title of Rule 6 is amended to read as follows:**

"Filing of translations"

- 3. The following new Rule 7a is inserted:**

"Rule 7a

Reduction of fees

(1) Where a person referred to in Article 14, paragraph 4, files a European patent application or a request for examination in a language admitted in that provision, the filing fee or examination fee shall be reduced in accordance with the Rules relating to Fees.

(2) The reduction of fees referred to in paragraph 1 shall be available for:



- (a) microenterprises;
- (b) small and medium-sized enterprises;
- (c) natural persons;
- (d) non-profit organisations, universities or public research organisations.

(3) Where a microenterprise, natural person, non-profit organisation, university or public research organisation files a European patent application or, in respect of an international application, performs the acts referred to in Rule 159, the following fees shall be reduced in accordance with the Rules relating to Fees:

- (a) filing fee;
- (b) fee for a European or supplementary European search;
- (c) examination fee, and in addition the previously paid international search fee where the European Patent Office acted as International Searching Authority;
- (d) designation fee;
- (e) fee for grant;
- (f) renewal fees for the European patent application.

(4) The reduction of fees referred to in paragraph 3 shall not be available where the same person has filed five or more European patent applications or Euro-PCT applications within a period of five years preceding

- the date of filing of the European patent application concerned or
- the date of entry into the European phase of the Euro-PCT application concerned.

The relevant date for previous applications shall be the date of filing in the case of a European patent application or the date of entry into the European phase in the case of a Euro-PCT application.

(5) In the case of multiple persons filing a European patent application or a Euro-PCT application, the reduction under paragraph 1 or 3 shall be available only if each applicant fulfils the applicable eligibility criteria.

(6) The eligibility criteria laid down in paragraphs 1 to 3 shall be fulfilled on the date of the payment of the fee concerned."

#### **4. The following new Rule 7b is inserted:**

"Rule 7b

Declaration of eligibility for a reduction of fees

(1) Applicants wishing to benefit from a reduction of fees under Rule 7a, paragraph 1 or 3,

shall declare themselves to be a person within the meaning of Rule 7a, paragraph 2 or 3, at the latest when the first reduced payment is made.

(2) Applicants shall inform the European Patent Office of any change of status affecting eligibility for a reduction of fees at the latest when the fee concerned is paid.

(3) In the event of reasonable doubt as to the veracity of the declaration within the meaning of paragraph 1 or, subsequently, as to the applicant's eligibility for a reduction of fees, the European Patent Office may request evidence.

(4) Should it become apparent that an incorrect declaration has been filed or the European Patent Office has not been informed of a change of status in accordance with paragraph 2 and a reduced payment is made, the fee shall be deemed not to have been paid and the application shall be deemed to be withdrawn."

**5. The second sentence of Rule 82, paragraph 2, is amended to read as follows:**

"Otherwise, the Opposition Division shall, on expiry of the period under paragraph 1, invite the proprietor of the patent to file a translation of any amended claims in the official languages of the European Patent Office other than the language of the proceedings, within a period of three months."

**6. Paragraph 3 of Rule 82 is amended to read as follows:**

"(3) If the acts required under paragraph 2 are not performed in due time, they may still be performed within two months of a communication concerning the failure to observe the time limit. Otherwise, the patent shall be revoked."

**7. Paragraph 3 of Rule 95 is amended to read as follows:**

"(3) If a request for limitation is allowable under paragraph 2, the Examining Division shall communicate this to the requester and invite him to file a translation of the amended claims in the official languages of the European Patent Office other than the language of the proceedings, within a period of three months; Rule 82, paragraph 3, first sentence, shall apply mutatis mutandis. If the requester performs these acts in due time, the Examining Division shall limit the patent."

**8. Paragraph 3 of Rule 123 is deleted. Paragraph 4 is renumbered as paragraph 3 accordingly.**

**9. The first sentence of Rule 146 is amended to read as follows:**

"Subject to the restrictions laid down in Article 128, paragraphs 1 to 4, and in Rule 144, the European Patent Office may, upon request, communicate information concerning any file relating to a European patent application or European patent."

Article 2

**Paragraphs 1 and 2 of Article 2 of the Rules relating to Fees are amended to read as follows:**

"(1) The fees due to be paid to the Office under Article 1, unless otherwise provided in paragraph 2, shall be as follows:

	<b>EUR</b>
1. Filing fee (Article 78, paragraph 2)	
(i) where the European patent application or, in the case of an international application, the form for entry into the European phase (EPO Form 1200) is filed online	<b>135</b>
(ii) where the European patent application or, in the case of an international application, the form for entry into the European phase (EPO Form 1200) is not filed online	<b>285</b>
1a. Additional fee for a European patent application comprising more than 35 pages (not counting pages forming part of a sequence listing) (Rule 38, paragraph 2)	
	plus <b>EUR 17</b>
	for the 36th and
	each subsequent page
1b. Additional fee in the case of a divisional application filed in respect of any earlier application which is itself a divisional application (Rule 38, paragraph 4)	
– fee for a divisional application of second generation	<b>235</b>
– fee for a divisional application of third generation	<b>480</b>
– fee for a divisional application of fourth generation	<b>715</b>
– fee for a divisional application of fifth or any subsequent generation	<b>955</b>
2. Search fee in respect of	
– a European or supplementary European search on an application filed on or after 1 July 2005 (Article 78, paragraph 2, Rule 62, Rule 64, paragraph 1, Rule 56a, paragraph 8, Article 153, paragraph 7, Rule 164, paragraphs 1 and 2)	<b>1 520</b>
– a European or supplementary European search on an application filed before 1 July 2005 (Article 78, paragraph 2, Rule 64, paragraph 1, Article 153, paragraph 7)	<b>1 040</b>
– an international search (Rule 16.1 PCT, Rule 40 <i>bis</i> PCT in conjunction with Rule 20.5 <i>bis</i> PCT, and Rule 158, paragraph 1)	<b>1 845</b>

	<b>EUR</b>
– a supplementary international search (Rule 45bis.3(a) PCT)	<b>1 845</b>
3. Designation fee for one or more Contracting States (Article 79, paragraph 2) in respect of an application filed on or after 1 April 2009	<b>685</b>
4. Renewal fees for the European patent application (Article 86, paragraph 1), calculated in each case from the date of filing of the application	
– for the 3rd year	<b>690</b>
– for the 4th year	<b>845</b>
– for the 5th year	<b>1 000</b>
– for the 6th year	<b>1 155</b>
– for the 7th year	<b>1 310</b>
– for the 8th year	<b>1 465</b>
– for the 9th year	<b>1 620</b>
– for the 10th and each subsequent year	<b>1 775</b>
5. Additional fee for belated payment of a renewal fee for the European patent application (Rule 51, paragraph 2)	<b>50%</b> of the belated renewal fee
6. Examination fee (Article 94, paragraph 1) in respect of	
– an application filed before 1 July 2005	<b>2 135</b>
– an application filed on or after 1 July 2005	<b>1 915</b>
– an international application filed on or after 1 July 2005 for which no supplementary European search report is drawn up (Article 153, paragraph 7)	<b>2 135</b>
7. Fee for grant including fee for publication of the European patent specification (Rule 71, paragraph 3), in respect of an application filed on or after 1 April 2009	<b>1 080</b>
8. <i>deleted</i>	

9. *deleted*

10. Opposition fee (Article 99, paragraph 1, Article 105, paragraph 2)

**880**

10a. Limitation or revocation fee (Article 105a, paragraph 1)

– request for limitation

**1 355**

– request for revocation

**615**

11. Fee for appeal (Article 108) for an appeal filed

– by any person referred to in Rule 7a, paragraph 2 (a) to (d)

**2 015**

– by any other person

**2 925**

11a. Fee for petition for review (Article 112a, paragraph 4)

**3 400**

12. Fee for further processing (Rule 135, paragraph 1)

	<b>EUR</b>
– in the event of late payment of a fee	<b>50%</b> of the relevant fee
– in the event of late performance of the acts required under Rule 71, paragraph 3	<b>300</b>
– other cases	<b>300</b>
13. Fee for re-establishment of rights/fee for requesting restoration/fee for reinstatement of rights (Rule 136, paragraph 1, Rule 26bis.3(d) PCT, Rule 49ter.2(d) PCT, Rule 49.6(d)(i) PCT)	<b>750</b>
14. Conversion fee (Article 135, paragraph 3, Article 140)	<b>0</b>
14a. Fee for late furnishing of a sequence listing (Rule 30, paragraph 3)	<b>265</b>
15. Claims fee (Rule 45, paragraph 1, Rule 71, paragraph 4, Rule 162, paragraph 1) in respect of an application filed on or after 1 April 2009	
– for the 16th and each subsequent claim up to the limit of 50	<b>275</b>
– for the 51st and each subsequent claim	<b>685</b>
16. Fee for the awarding of costs (Rule 88, paragraph 3)	<b>90</b>
17. <i>deleted</i>	
18. Transmittal fee for an international application (Rule 157, paragraph 4)	<b>150</b>
19. Fee for the preliminary examination of an international application (Rule 58 PCT and Rule 158, paragraph 2)	<b>1 915</b>
20. Fee for a technical opinion (Article 25)	<b>4 560</b>
21. Protest fee (Rule 158, paragraph 3, Rule 40.2(e) PCT, Rule 68.3(e) PCT)	<b>1 020</b>
22. Review fee (Rule 45bis.6(c) PCT)	<b>1 020</b>

(2) For European patent applications filed before 1 April 2009 and international applications which entered the regional phase before that date, the amount of the fees specified in Article 2, item 3, item 3a, item 7 and item 15 of the Rules relating to Fees as in force until 31 March 2009 shall be as follows:

3.	Designation fee for each Contracting State designated (Article 79, paragraph 2), designation fees being deemed paid for all Contracting States upon payment of seven times the amount of this fee	<b>120</b>
3a.	Joint designation fee for the Swiss Confederation and the Principality of Liechtenstein	<b>120</b>
7.	Fee for grant including fee for printing the European patent specification (Rule 71, paragraph 3), where the application documents to be printed comprise:	
7.1	not more than 35 pages	<b>1 080</b>
7.2	more than 35 pages	
		The amount of item 7.1 plus <b>EUR 18</b>  for the 36th and each subsequent page
15.	Claims fee for the sixteenth and each subsequent claim (Rule 45, paragraph 1, Rule 71, paragraph 4, Rule 162, paragraph 1)	<b>275</b>

".

**Paragraphs 3 and 4 of Article 2 of the Rules relating to Fees are deleted.**

### Article 3

**Article 14 of the Rules relating to Fees is amended to read as follows:**

"Article 14

Reduction of fees

(1) The reduction laid down in Rule 7a, paragraphs 1 and 3, of the Convention shall be 30% of the relevant fee.

(2) Where the European Patent Office has drawn up an international preliminary examination report, the examination fee shall be reduced by 75%. If the report was established on certain parts of the international application in accordance with Article 34, paragraph 3(c), PCT, the fee shall not be reduced if subject-matter not covered by the report is to be examined.

(3) If more than one reduction applies to the same fee for the same application, the reductions shall be calculated sequentially."

#### Article 4

1. The fee for a supplementary European search on an international application for which the international search report or a supplementary international search report was drawn up by the Austrian Patent Office, or, in accordance with the Protocol on Centralisation, by the Finnish Patent and Registration Office, the Spanish Patent and Trademark Office, the Swedish Intellectual Property Office, the Turkish Patent and Trademark Office, the Nordic Patent Institute or the Visegrad Patent Institute is reduced by **EUR 1 300**.
2. If a reduction is granted as provided in paragraph 1, the maximum amount of the reduction in the fee for a supplementary European search is equal to the reduction granted on the basis of a single international search report or supplementary international search report drawn up by one of the authorities mentioned in paragraph 1.

#### Article 5

This decision enters into force on 1 April 2024.

#### Article 6

1. Without prejudice to paragraph 3, the new amounts of the fees specified in Article 2 of this decision apply to payments made on or after 1 April 2024.
2. The new amount of the transmittal fee for an international application applies to applications filed on or after 1 April 2024.
3. If within six months of 1 April 2024 a fee is paid in due time but only in the amount due before 1 April 2024, that fee will be deemed to have been validly paid if the deficit is made good within two months of an invitation to that effect from the European Patent Office.
4. Article 4 of this decision applies to international applications filed up to and including 31 March 2028 for which the international search report or supplementary international search report was drawn up by the Austrian Patent Office, the Finnish Patent and Registration Office, the Spanish Patent and Trademark Office, the Swedish Intellectual Property Office, the Turkish Patent and Trademark Office, the Nordic Patent Institute or the Visegrad Patent Institute and for which the fee for the supplementary European search is paid on or after 1 April 2024.



Article 7

Article 2 of decision CA/D 16/22 of 14 December 2022 (OJ EPO 2023, A25) is rescinded with effect from 1 April 2024 and replaced by Article 4 of this decision.

Done at Munich, [date of decision]

For the Administrative Council  
The Chairperson

Josef KRATOCHVÍL



## **ANNEX 2      BACKGROUND INFORMATION ON THE STRUCTURE OF THE FEE SYSTEM AND OVERVIEW OF PROPOSED FEES FOR ABOLITION**

The European patent fee structure has an intrinsic element of complexity as it covers a very sophisticated centralised patent grant procedure with an important international dimension. Moreover, the continued diversification of services and tools offered by the Office, driven by the integration of new technologies into the patent grant procedure (PGP), has led to an increase in the number of different fees collected by the Office, which have different objectives.<sup>6</sup>

As elaborated in document CA/F 27/20, including the basic 8 fee codes for EP and 9 fee codes for Euro-PCT applications, fee codes can be grouped into six main categories:

- 14 fee codes for the procedural actions under the PCT
- 30 fee codes aimed at influencing applicant behaviour: page fee, claim fee, filing fee for divisional applications, filing fee for filing on paper, surcharges for late payment of fees
- 15 fee codes covering means of redress and means available to third parties against granted patents: appeal fee, re-establishment fee, fees for further processing, opposition fee
- 20 fee codes for extension and validation procedures
- 6 fee codes relating to administrative fees: including for registration of a transfer or a licence, and for certified official copies
- 18 renewal fee codes as of the third year, plus 18 additional fee codes for late payment

The table below takes the approach of classifying fees according to their role in the different procedures, i.e. the Euro-direct and PCT procedures, instead of as a succession of fee codes. This grouping of fees shows that there are in fact 34 different types of fees in the two procedures, including administrative fees.

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<sup>6</sup> See CA/F 27/20, p. 3 ff.

	Fees	Legal basis	Code	Impact/role
<b>EP procedure</b>				
1	Filing fee	Art. 78(2)	001, 020	Basic procedural fee (paper, online)
2	Page fee	R. 38(2)	501, 520, 008	Compensate for the effort of studying extensive text (filing fee) or for publishing large applications (008)
3	Fee for divisional	R. 38(4)	552, 553, 554, 555	Discourage the filing of long chains of divisional applications
4	EP search fee	Art. 78(2), R. 64(1), Art. 153(7)	002	Basic procedural fee
5	Designation fee	Art. 79 (2)	005	Basic procedural fee
6	Examination fee	Art. 94 (1)	006	Basic procedural fee
7	Fee for grant	R. 71(3)	007	Basic procedural fee
8	Fee for publishing new spec.	R. 82(2), R. 95(3)	009	Proposed deletion
9	Surcharge late performance	R. 82(3), R. 95(3)	056	Proposed deletion
10	Internal renewal fees	Art. 86 (1)	18 codes 033-050	Basic procedural fee
11	Surcharge late payment IRF	R. 51(2)	18 codes 093-110	Discourage late payments
12	Opposition fee	Art. 99(1)	010	Legal means available to third parties
13	Limitation/revocation fee	Art. 105(1)	131, 141	Basic procedural fee
14	Appeal fee	Art. 108	011	Means of redress (Art. 106, R. 100 EPC)
15	Fee for further processing	R. 135(1)	121, 122, 123	Means of redress (Art. 121 EPC)
16	Fee for re-establishment of rights	R. 136 (1)	013	Means of redress (Art. 122 EPC)
17	Conversion fee	Art. 135(3)	014	Fee level reduced to zero
18	Fee for late furnishing sequence	R. 30(3)	067, 066	Discourage late payments, compensation for administrative effort
19	Claims fee	R. 45(1) R. 71(4)	015,016	Compensation for searching large inventions
20	Fee for the awarding of costs	R. 88(3)	017	Fee for task of the opposition division to apportion costs
21	Fee for the conservation of evidence	R. 123(3)	018	Proposed deletion
22	Validation and extension fees		19 codes 400-453	
23	Fee for a technical opinion	Art. 25	060	
<b>PCT procedure</b>				
24	PCT search fee	R. 16.1 PCT, R. 45bis3(a) PCT	003	PCT fee, amount fixed by EPO = ISA
25	International-type search fee	Art. 15(5) PCT	004	PCT fee, amounts fixed by EPO = ISA
26	Transmittal fee	R. 157(4) EPC	019	PCT fee, amount fixed by EPO = RO
27	Internat. examination fee	R. 58 PCT	021	PCT fee, amount fixed by EPO = IPEA
28	Protest review fees	R. 40.2 PCT, R. 45bis PCT	062, 069	PCT fee, amount fixed by EPO = ISA or IPEA
29	Late payment search and exam fee	R. 16bis PCT, R. 58bis PCT	063, 064	PCT fee, amount fixed by EPO = ISA or IPEA
<b>Administrative fee</b>				
30	Registration of transfers	R. 22(2)	022	Administrative fee
31	Registration of licences	R. 23	023	Administrative fee
32	Certified copy	R. 54, R. 74	029	Administrative fee
33	Communication of information	R. 146	030	Proposed deletion
34	Add. copy of docs cited in search report	RFees 3(1)	055	Proposed deletion when all search reports sent online

## ANNEX 3 FEES PER APPLICATION FROM FILING TO GRANT

	Situation on 1 April 2023 (CA/72/22, CA/51/20, Rule 6 EPC, refunds for re-use)			
	Standard case. Reference for all other columns		30% Rule 6 discount	Nat. search CA/51/20 followed by 84% EP search fee refund combined with 30% Rule 6 discount
<b>Euro-direct and PCTbis application</b> simple average case				
Filing fee	€135.00	-30%	€94.50	-30% €94.50
Nat. search CA/51/20	€0.00	0%	€0.00	0% €467.20
Search fee	€1 460.00	0%	€1 460.00	-84% €233.60
Examination fee	€1 840.00	-30%	€1 288.00	-30% €1 288.00
Designation fee	€660.00	0%	€660.00	0% €660.00
3rd renewal fee	€530.00	0%	€530.00	0% €530.00
4th renewal fee	€660.00	0%	€660.00	0% €660.00
5th renewal fee	€925.00	0%	€925.00	0% €925.00
Grant/Publ. fee	€1 040.00	0%	€1 040.00	0% €1 040.00
<b>Total (% of first column)</b>	<b>€7 250.00</b>	<b>-8%</b>	<b>€6 657.50</b>	<b>-19%</b> <b>€5 898.30</b>
change vs. 1 April 2023				
<b>change vs. first column</b>	<b>€0.00</b>	<b>-8%</b>	<b>-€592.50</b>	<b>-19%</b> <b>-€1 351.70</b>

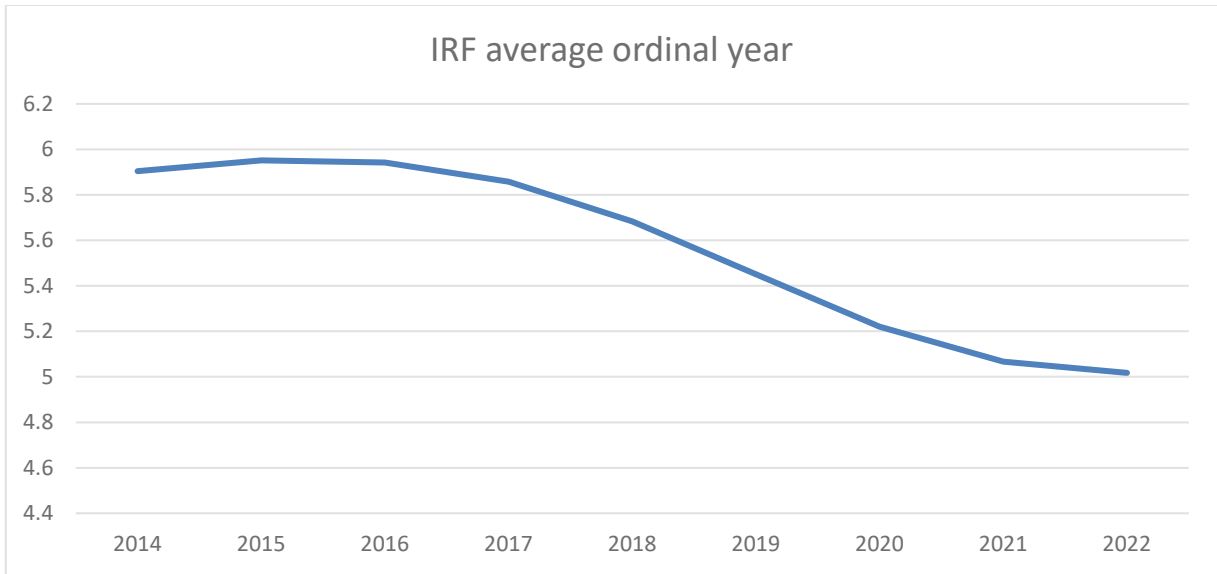
	Proposed situation on 1 April 2024 (Fee adjustment and 30% discount for micro-entities)							
	Normal case (no Rule 6, no 30% micro- entity discount)		30% micro- entity discount, no Rule 6		30% micro- entity and 30% Rule 6 discount	Nat. search CA/51/20* followed by 84% EP search fee refund combined with 30% micro- entity and 30% Rule 6 discount		
	0%	€135.00	-30%	€94.50	-51%	€66.15	-51%	€66.15
	0%	€0.00	0%	€0.00	0%	€0.00	0%	€467.20
	4%	€1 520.00	-27%	€1 064.00	-27%	€1 064.00	-88%	€170.24
	4%	€1 915.00	-27%	€1 340.50	-49%	€938.35	-49%	€938.35
	4%	€685.00	-27%	€479.50	-27%	€479.50	-27%	€479.50
	30%	€690.00	-9%	€483.00	-9%	€483.00	-9%	€483.00
	28%	€845.00	-10%	€591.50	-10%	€591.50	-10%	€591.50
	8%	€1 000.00	-24%	€700.00	-24%	€700.00	-24%	€700.00
	4%	€1 080.00	-27%	€756.00	-27%	€756.00	-27%	€756.00
	<b>9%</b>	<b>€7 870.00</b>	<b>-24%</b>	<b>€5 509.00</b>	<b>-30%</b>	<b>€5 078.50</b>	<b>-36%</b>	<b>€4 651.94</b>
	9%	€620.00	-24%	-€1 741.00	-24%	-€1 579.00	-21%	-€1 246.36
	<b>9%</b>	<b>€620.00</b>	<b>-24%</b>	<b>-€1 741.00</b>	<b>-30%</b>	<b>-€2 171.50</b>	<b>-36%</b>	<b>-€2 598.06</b>

	Euro-PCT (EPO=ISA)			
	Standard case. Reference for all other columns		30% Rule 6 discount	Nat. search CA/51/20 followed by 100% PCT search fee refund combined with 30% Rule 6 discount
<b>Euro-PCT (EPO=ISA)</b> simple average case				
Nat. search CA/51/20	€0.00	0%	€0.00	0% €467.20
Int. search fee	€1 775.00	0%	€1 775.00	-100% €0.00
Transmittal fee	€145.00	0%	€145.00	0% €145.00
Filing fee	€135.00	0%	€135.00	0% €135.00
Examination fee	€2 055.00	-30%	€1 438.50	-30% €1 438.50
Designation fee	€660.00	0%	€660.00	0% €660.00
3rd renewal fee	€530.00	0%	€530.00	0% €530.00
4th renewal fee	€660.00	0%	€660.00	0% €660.00
5th renewal fee	€925.00	0%	€925.00	0% €925.00
Grant/Publ. fee	€1 040.00	0%	€1 040.00	0% €1 040.00
<b>Total (% of first column)</b>	<b>€7 925.00</b>	<b>-8%</b>	<b>€7 308.50</b>	<b>-24%</b> <b>€6 000.70</b>
change vs. 1 April 2023				
<b>change vs. first column</b>	<b>€0.00</b>	<b>-8%</b>	<b>-€616.50</b>	<b>-24%</b> <b>-€1 924.30</b>

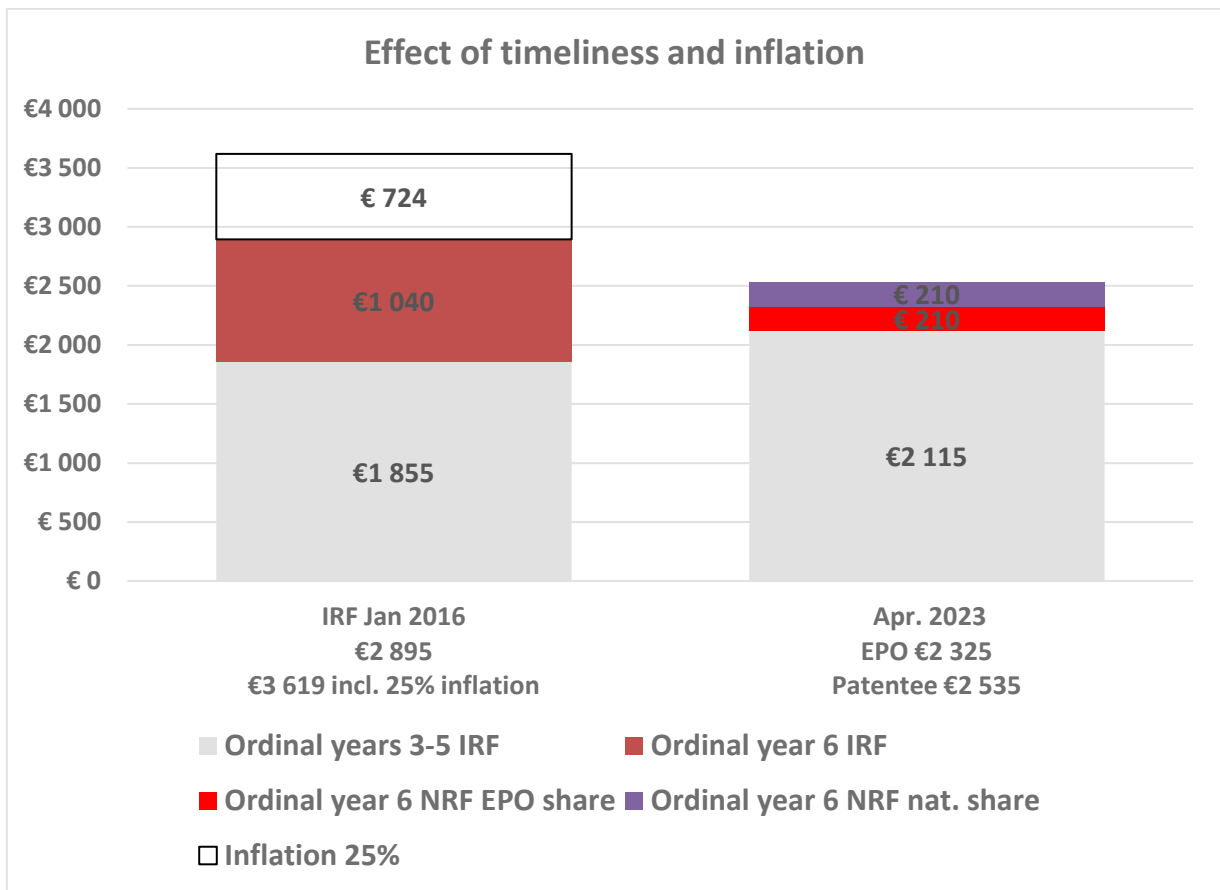
	Euro-PCT (EPO=ISA)							
	Normal case (no Rule 6, no 30% micro- entity discount)		30% micro- entity discount, no Rule 6		30% micro- entity and 30% Rule 6 discount	Nat. search CA/51/20* followed by 100% PCT search fee refund combined with 30% micro- entity and 30% Rule 6 discount		
	0%	€0.00	0%	€0.00	0%	€0.00	0%	€467.20
	4%	€1 845.00	4%	€1 845.00	4%	€1 845.00	-100%	€0.00
	0%	€145.00	-30%	€101.50	-30%	€101.50	-30%	€101.50
	0%	€135.00	-30%	€94.50	-30%	€94.50	-30%	€94.50
	4%	€2 135.00	-54%	€941.00	-68%	€658.70	-68%	€658.70
	4%	€685.00	-27%	€479.50	-27%	€479.50	-27%	€479.50
	30%	€690.00	-9%	€483.00	-9%	€483.00	-9%	€483.00
	28%	€845.00	-10%	€591.50	-10%	€591.50	-10%	€591.50
	8%	€1 000.00	-24%	€700.00	-24%	€700.00	-24%	€700.00
	4%	€1 080.00	-27%	€756.00	-27%	€756.00	-27%	€756.00
	<b>8%</b>	<b>€8 560.00</b>	<b>-24%</b>	<b>€5 992.00</b>	<b>-28%</b>	<b>€5 709.70</b>	<b>-45%</b>	<b>€4 331.90</b>
	8%	€635.00	-24%	-€1 933.00	-22%	-€1 598.80	-28%	-€1 668.80
	<b>8%</b>	<b>€635.00</b>	<b>-24%</b>	<b>-€1 933.00</b>	<b>-28%</b>	<b>-€2 215.30</b>	<b>-45%</b>	<b>-€3 593.10</b>

\* An update of the fee policy for national searches is proposed in parallel; the new proposed amount after support is EUR 493.60 instead of EUR 467.20.

**ANNEX 4 CURRENT SITUATION – IMPACT OF TIMELINESS AND INFLATION**



Due to timeliness, the average ordinal year for which IRFs are paid has gone down.



As a consequence of timeliness, for a typical case, the costs for applicants have decreased from EUR 2 895 in 2016 to EUR 2 535 in April 2023. EPO income has decreased even more, as the EPO receives 50% of national renewal fees.

## ANNEX 5 PROPOSED IRF AMOUNTS

