



**Europäische  
Patent-  
organisation**

Verwaltungsrat

**European  
Patent  
Organisation**

Administrative Council

**Organisation  
européenne des  
brevets**

Conseil d'administration

**Number:**  
CA/66/25 Rev. 1

**Original:**  
en

**Date:**  
17.11.2025

**Category:**  
Public

**TITLE:** **Convergence of Practice**

**SUBJECT:** Convergence of Practice: New cycle

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

**ADDRESSEES:**  
1. Administrative Council (for decision)  
2. Committee on Patent Law (for information)

**MAJORITY:** Simple

**LEGAL BASIS:** Article 10(2)(c) EPC

**RECOMMENDATION:** The Committee on Patent Law is requested to give its opinion on the proposed topics for the third cycle of the Convergence of Practice programme and their prioritisation.

The Administrative Council is requested to approve the proposal for the third cycle of the Convergence of Practice programme and its prioritisation.

**SUMMARY:** This document replaces CA/66/25 dated 06.10.2025. The amendments are indicated by grey hatching.

The second cycle of the Convergence of Practice programme will conclude with the Administrative Council's planned adoption of the third pair of common practices in March 2026. The document sets out the topics for the third cycle of the Convergence of Practice programme and their prioritisation, following the consultation that took place.

This version of the document takes into account the comments and suggestions made during the 63rd meeting of the Committee on Patent Law held on 23 October 2025.

## **Table of Contents**

<b>1.</b>	<b>Introduction</b>	<b>2</b>
<b>2.</b>	<b>Proposed new topics</b>	<b>2</b>
<b>3.</b>	<b>Financial implications</b>	<b>4</b>
<b>4.</b>	<b>Documents cited</b>	<b>4</b>
<b>Annex 1</b>	<b>List of topics</b>	<b>5</b>
<b>I.</b>	<b>DIVISIONAL APPLICATIONS (WG 13)</b>	<b>5</b>
<b>II.</b>	<b>INTERNET DISCLOSURES (WG 14)</b>	<b>6</b>
<b>III.</b>	<b>FILE INSPECTION (WG 15)</b>	<b>7</b>
<b>IV.</b>	<b>STRUCTURE AND ENTRIES IN THE PATENT REGISTER (WG 16)</b>	<b>7</b>
<b>V.</b>	<b>USE OF PRIOR SEARCH RESULTS (WG 17)</b>	<b>8</b>
<b>VI.</b>	<b>STRUCTURING A SEARCH AND DEFINING A SEARCH STRATEGY (WG 18)</b>	<b>9</b>

## 1. Introduction

1. The Convergence of Practice programme was launched in December 2019 as a part of SP2023, initially covering six topics (see CA/PL 14/19). The Convergence programme aims to simplify the patent system, making it more accessible and efficient for users by reducing discrepancies in administrative procedures among different jurisdictions, with a particular emphasis on procedural harmonization. It exemplifies the EPO's commitment to fostering a more unified and accessible patent landscape in Europe, benefiting inventors and businesses alike.
2. In January 2023, a second cycle of the Convergence programme was started with an additional six topics (see CA/73/22 Rev. 1). So far, this has resulted in a total of ten common practices being adopted by the Administrative Council. All of the adopted common practices are published on the EPO's dedicated website ([epo.org/convergence](https://epo.org/convergence)). The second work cycle will conclude at the end of the year with the completion of the work on the remaining two topics ("Broad claims" and "Double patenting") and their planned adoption by the Administrative Council in March 2026.
3. An overview and detailed information on the implementation of common practices by the Contracting States are regularly collected and made available on the Convergence of Practice Dashboard. It supports the systematic monitoring and provides transparency for users. For each of the common practices established under the Convergence of Practice programme, it provides an overview of implementation across the Contracting States. In addition, detailed information on each country's status of implementation is available on the dedicated sub-pages.
4. Furthermore, during the second cycle, the EPO continued to organise dedicated annual events to inform representatives of national patent offices that do not participate in the working groups, as well as users, about progress on convergence topics. Regular updates to users were also provided via the SACEPO.

## 2. Proposed new topics

5. The Convergence of Practice is a key part of the EPO's Strategic Plan 2028 (see CA/13/24) and a third cycle will be pursued given the programme's success. Consequently, new topics for this further cycle of Convergence work need to be selected.
6. Following a consultation of the Contracting States, WIPO and the users on the topics proposed by the EPO for the third cycle and after taking into account the feedback received, the following topics are now suggested in the following order:
  - 1st pair of topics (January 2026/March 2027): "Divisional applications" (WG 13) and "Internet disclosures" (WG 14);
  - 2nd pair of topics (January 2027/March 2028): "File inspection" (WG 15) and "Structure and entries in the patent register" (WG 16);
  - 3rd pair of topics (January 2028/March 2029): "Use of prior search results" (WG 17) and "Structuring a search and defining a search strategy" (WG 18).

7. The consultation conducted with Contracting States, WIPO and the user associations can be summarised as follows: In May 2025, the EPO launched a consultation on six new topics that appeared particularly suited to the third work cycle, and which promised to unlock the full potential of the Convergence programme. Both delegations and user associations raised some reservations as to the topic "Principles and standards for the assessment of added matter". Some delegations suggested alternative topics, among which "Divisional applications" was mentioned. Taking these comments and suggestions into account, and in view of the policy discussions on certain aspects of divisional applications in the Administrative Council and the Committee on Patent Law, the President of the EPO, by a letter dated 25 July 2025, proposed substituting the topic "Principles and standards for the assessment of added matter" with "Divisional applications." The other topics put forward during the consultation will, of course, be given due consideration when selecting the subjects for forthcoming cycles of the Convergence of Practice programme.
8. The Committee on Patent Law, at its 63rd meeting, gave a favourable opinion on the proposed topics for the third cycle and their sequence. A majority of delegations supported the full list of six proposed topics. Many Contracting States as well as BusinessEurope and epi, expressed support for addressing the topic "Divisional applications" within the Convergence of Practice programme. At the same time, some delegations raised questions about whether that topic is best suited to the Convergence framework.
9. In response to these questions, the Convergence of Practice programme's proven value in fostering a consistent and transparent approach across Europe can be recalled. The constructive exchanges in the Working Groups, in the Committee on Patent Law and in the Administrative Council have so far resulted in the adoption of ten common practices. This illustrates the Convergence of Practice programme's role as a platform for open dialogue among Offices and stakeholders with a view to reaching consensus, including on complex legal issues. The common practices adopted so far within the Convergence of Practice programme have not only fostered greater alignment among Member States but have also led to adaptations of the EPO's legal framework and practice, notably in relation to the designation of the inventor and the admissibility of colour drawings.
10. A key objective of the Convergence of Practice programme is to facilitate mutual understanding by systematically gathering information on national rules and practices. To that effect, as a start of the activities in a given convergence Working Group, a questionnaire is prepared by the EPO and sent to participants. By mapping out how different Offices approach specific legal and procedural issues, the programme creates a valuable knowledge base that supports greater alignment and consistency in the European patent landscape. It empowers national offices, users, and the EPO alike to engage in constructive dialogue within the Working Groups, build mutual trust, and work towards greater alignment – where feasible – while respecting the diversity of legal traditions and practices across Offices. By surfacing differences in interpretation or implementation, these well-established working methods ensure a better understanding of the underlying legal frameworks and policy considerations that shape national approaches and help to identify shared principles and practical solutions.
11. A detailed description of each of these topics is provided in the Annex.

12. As per the well-established practice, the topics for the third cycle will be rolled out in pairs and discussed in dedicated working groups chaired by the EPO in online meetings. All EPC Contracting States are invited to participate and can join the respective working groups at any time. User organisations and WIPO will again be invited to the working groups as observers. The Contracting States which are not part of a working group will be kept informed via dedicated events. Furthermore, regular updates will be provided to users via the SACEPO.
13. The Office will invite all heads of delegations, as well as user organisations and WIPO, to express interest in joining the dedicated working groups and to submit representatives' CVs in due course.
14. Finally, it is worth recalling the two fundamental principles underpinning the Convergence of Practice programme: participation in its Working Groups is voluntary, and the implementation of any common practice developed within this framework equally remains at the discretion of each participating office, particularly where national specificities or legal constraints may exist.

### **3. Financial implications**

15. None

### **4. Documents cited**

16. CA/PL 14/19, CA/73/21 Rev. 1, CA/13/24

## **Annex 1      List of topics**

### **I.      DIVISIONAL APPLICATIONS (WG 13)**

1.      The usual reason for filing a European divisional application is that the parent application does not satisfy the requirements as to unity of invention and the applicant wishes to obtain a patent for all the inventions. However, there are many reasons why an applicant might wish to file a divisional patent application. For example, applicants also sometimes file divisional patent applications where they would like to seek protection for subject matter that appears anywhere else in the parent application but not in the claims that are expected to proceed to grant. In another example, applicants sometimes make amendments to their claims in order to get a patent granted quickly, but the amendments make the claims narrower than the applicant would prefer. The applicant might file a divisional patent application in such a case, to try to get protection for broader subject matter.
  
2.      A divisional application may typically be filed only for subject-matter which does not extend beyond the content of the parent application as filed. If it complies with this provision and with the formal requirements for according a date of filing, it is deemed to have the same date of filing as the parent application. A valid divisional application also enjoys the priority right(s) of the parent application. In many jurisdictions a divisional application may be filed in respect of any pending earlier patent application, some jurisdictions allowing for it to be filed after the grant of the parent application or providing specific time limits. Procedurally speaking, some jurisdictions provide for the possibility to file a divisional application by reference to a previously filed application. After filing, each divisional application is generally treated as an independent patent application. It does not extend the overall patent term which is commonly calculated from the filing date of the earliest application from which priority is claimed.
  
3.      Some specific fees may be due when filing divisional applications. For example, at the EPO, an additional fee is payable as part of the filing fee for divisional applications of second or subsequent generations filed on or after 1 April 2014. The fee amount varies depending on the generation to which the divisional application filed belongs. There may also be special requirements for the payment of renewal fees, the parent application's filing date usually also being the date from which the time limits for paying the renewal fees for the divisional application are calculated. Finally, at the EPO, the search fee is refunded in full or in part, depending on the extent to which the search can be based on the search report for the parent (or, in the case of a sequence of applications, any preceding) application.

4. The objective of this topic could in particular be to compare the main administrative and procedural requirements governing the filing of divisional applications in the Contracting States. Both the voluntary and, where applicable, mandatory division could be addressed. The work of the Working Group could also draw on the existing common practices on unity of invention and double patenting, recognising that the Convergence of Practice programme is an iterative process that builds progressively on previous achievements. The goal of a possible common practice could be that Offices get closer in their procedural and administrative framework.
5. The topic might achieve a common practice on, for example, the following issues: possibility of filing by reference to a previous application, meaning of the condition of pendency of the parent application, calculation of the patent term, existence of any (incremental) fees and the time limits for paying such fees, due dates for the payment of renewal fees. Developing a common practice on less complex or less contentious issues at this stage may also facilitate progress on more challenging topics in the future, helping to foster a shared understanding and gradual alignment among Member States and the EPO. Finally, in light of the recent discussions concerning any potential abuse of voluntary divisional applications, this Convergence topic would offer an appropriate and constructive platform to explore the matter collectively, with a view to promoting transparency, consistency, and balanced procedural outcomes across the European patent system.

## **II. INTERNET DISCLOSURES (WG 14)**

1. As a matter of principle, disclosures on the internet form part of the state of the art according to Article 54(2) EPC. Information disclosed on the internet or in online databases is considered to be publicly available as of the date the information was publicly posted. Internet websites often contain highly relevant technical information. Certain information may even be available only on the internet from such websites. This includes, for example, online manuals and tutorials for software products (such as video games) or other products with a short life cycle. Hence for the sake of a valid patent it is often crucial to cite publications only obtainable from such internet websites.
2. One important aspect is the establishment of a publication date which has two main aspects. It must be assessed separately whether a given date is indicated correctly and whether the content in question was indeed made available to the public as of that date. Another crucial aspect is the standard of proof to be used. As a general principle, when raising objections, the burden of proof lies initially with the examiner. This means that objections must be reasoned and substantiated, and must show that, on the balance of probabilities, the objection is well-founded. If this is done, it is then up to the applicant to prove otherwise – the burden of proof shifts to the applicant.

3. This topic is of practical benefit for the national Offices. It comprises numerous aspects which could become part of a common practice such as the dating of internet citations, the standard of proof to be used, the burden of proof, types of documents that can be cited (such as sources other than scientific publishers), correct way of citing internet disclosures, treatment of videos or podcasts and the capture and storage of electronic evidence suitable to prove content and availability to the public.

### **III. FILE INSPECTION (WG 15)**

1. After a European patent application has been published, any person may inspect and obtain information from the files relating to the application and the resultant European patent. However, prior to the European patent application's publication, any person who can prove that applicants have invoked their rights under the application against them may also inspect the files (Article 128(2) EPC). File inspection plays a key role when it comes to the transparency of the patent system and its quid pro quo.
2. As regards the conduction of file inspection, documents may be excluded from file inspection for different reasons, for example where their inspection is claimed to be prejudicial to the legitimate personal or economic interests of a natural or legal person. Observations by third parties are an integral part of the files and as such are open to inspection in accordance with Article 128 EPC. The parts of the file excluded from inspection are kept separate from those open to inspection.
3. Correspondence in proceedings relating to the inspection of files conducted between the EPO and the person requesting the inspection is included in the non-public part of the file. The EPO does not provide the applicant with any information about the proceedings relating to the inspection of files.
4. National patent Offices all have equivalent provisions on file inspection. However, divergence between the systems exist. Therefore, work on the topic "file inspection" could encompass aspects such as the documents open to file inspection, how file inspection is conducted, the restrictions to it, the confidentiality of the file inspection request and the question whether file inspection is possible before the publication of the patent application under certain circumstances. Attention may also be given to the possibility for Offices to communicate specific particulars to third parties or publish them before the publication of the patent application.

### **IV. STRUCTURE AND ENTRIES IN THE PATENT REGISTER (WG 16)**

1. The European Patent Office keeps a European Patent Register, in which the particulars specified in the Implementing Regulations are recorded. National Offices keep equivalent registers primarily with respect to data concerning national patents. The aim of such a topic would be to try to harmonise to a certain extent the types of different register entries and to try to align the structures of the different registers.

2. Patent registers can be used to find out what stage in the procedure a patent application has reached; see whether or not a patent has been granted; check whether any oppositions to a patent have been filed; read correspondence between the Office and patent applicants/attorneys. At the EPO, it may also be used to check whether or not unitary effect has been requested or registered and to find out if a European patent has been opted out from the jurisdiction of the Unified Patent Court.
3. Some systems provide for register alerts which allow users to monitor changes to data in the patent register. One can monitor selected files and opt to receive an e-mail alert every time a change triggering a Register event occurs to one of these files. Ideally, the patent registers are available free of charge, 24 hours a day, 7 days a week.
4. This topic will enable to take stock of how the national patent registers function and what information they show, in particular when it comes to the national bundle part of a granted European patent. A possible common practice could for example contain recommendations as to the content of the data and the way it is displayed. It could also cover recommendations as to the fact that registers should ideally be online and free of charge or the possibility for register alerts which allow users to monitor changes to data in the patent registers.

## **V. USE OF PRIOR SEARCH RESULTS (WG 17)**

1. The Administrative Council decided to introduce a permanent utilisation scheme on the basis of Article 124 EPC and to amend the EPC Implementing Regulations to this effect. Rules 141 and 70b EPC, which apply to European patent applications (including divisional applications) and international applications filed on or after 1 January 2011 provide that, for European patent applications claiming priority from an earlier application, applicants have to provide the search results of the office of first filing, if available, unless a copy is available to the EPO and can automatically be included in its file.
2. At the EPO, applicants are exempted from filing a copy of the search results under Rule 141(1) EPC if they are claiming the priority of either an application on which the EPO drew up a certain type of search report, or a first filing made in Austria, the Czech Republic, Denmark, Japan, the People's Republic of China, the Republic of Korea, Spain, Sweden, Switzerland, the United Kingdom or the United States of America.
3. A key principle of the utilisation scheme is that the use of the work of the NPO and in particular of the national search results is always at the discretion of the EPO examiner. Utilisation cannot and does not imply automatic reuse of NPO search results.

4. Some Contracting States have introduced similar legal provisions aiming to obtain prior search results from applicants. The proposed topic would provide an opportunity to take stock of the utilisation systems at national level. Divergences in the approaches chosen by the national patent offices could be identified and a common practice could try to alleviate them. Emphasis would be put on the procedural mechanisms available for national Offices for obtaining prior search results. It is to be noted that the proposed topic is not about retrieving and re-using existing search reports by examiners in general. It is about the procedural mechanisms available to national offices to request prior search results from applicants.

## **VI. STRUCTURING A SEARCH AND DEFINING A SEARCH STRATEGY (WG 18)**

1. The search is aimed at identifying the state of the art relevant for determining whether, and if so to what extent, the claimed invention is new and involves an inventive step. As to the search documentation, it is carried out in in-house or external document collections or databases. Their contents can be accessed systematically, e.g. using keywords, classification symbols or indexing codes. The available documentation consists largely of patent documents but also includes non-patent literature, such as articles from periodicals. The search report will then mention those documents available to the searching Office at the time of drawing up the report, which may be taken into consideration in deciding whether the invention to which the patent application relates is new and involves an inventive step.
2. The search examiner will first of all study the application to determine the subject-matter of the claimed invention. In particular, the examiner will study the content of the claims, description and drawings in enough detail to identify the problem the invention is intended to solve, the inventive concept leading to its solution, the features essential to the solution, as found in the claims, and the results and effects obtained. Once the search examiner has determined the subject-matter of the invention, the first step is to define their approach to the search – in terms of what concepts, classes, keywords, etc. they plan to use – as precisely as possible. The search examiner next starts the search process by devising a search strategy, i.e. a plan consisting of a series of search statements reflecting the subject-matter to be searched and determining the parts of the documentation to be consulted.

3. Usually various search strategies are possible, and the search division exercises its judgement, depending on its experience and knowledge of the available search tools, to select the most appropriate search strategy. The search division gives precedence to search strategies consulting documentation in which the probability of finding relevant documents is highest. Generally, the search is carried out in the main technical field of the application. When considering whether to extend the search to other less relevant sections of the documentation, the search division will take account of the results already obtained. The search process is interactive and iterative in the sense that the search examiner will need to revise their initial search statements depending on how useful they consider the information found so far. The aspects of completeness of the search and its effectiveness and efficiency are crucial.
  
4. The goal of this topic is to deliver a common practice with a view to move the search strategies closer in terms of methodology. The objective is to identify how the search is carried out in the different jurisdictions (as opposed to what is searched and where). In order to focus on how the search is carried out by examiners, some of the above-mentioned elements could be considered in detail. Specific areas of discussion could comprise when to stop the search (e.g. checklist of actions) and the design of a search strategy (choice of the appropriate databases etc.) as well as indicators for the completeness of the search. Please note that this topic is not about exchanging search strategies for individual files.