



DECISION OF THE ADMINISTRATIVE COUNCIL
of 14 December 2023
amending the Regulation on the European qualifying
examination for professional representatives before
the European Patent Office

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention and in particular Articles 134(2)(c) and 134a(1)(b) thereof,

Having regard to the existing Regulation on the European qualifying examination for professional representatives before the European Patent Office,

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

HAS DECIDED AS FOLLOWS:

Article 1

The Regulation on the European qualifying examination for professional representatives before the European Patent Office, as adopted on 9 December 1993 (CA/D 15/93) and last amended by decision of the Administrative Council of 10 December 2008 (CA/D 26/08), is replaced by the text in the annex to this decision.

Article 2

This decision enters into force on 1 January 2025.

Done at Munich, 14 December 2023

For the Administrative Council
The Chairperson

A handwritten signature in black ink, appearing to read 'J. Kratochvíl', written in a cursive style.

Josef KRATOCHVÍL

ANNEX

Article 1 European qualifying examination

(1) The European qualifying examination (hereinafter "the examination") is designed to establish whether a candidate is qualified to practise as a professional representative before the European Patent Office (hereinafter "the EPO").

(2) The examination is normally held once a year. The period between two examinations must not exceed twenty-five months.

(3) The examination comprises written papers only.

(4) The examination assesses, as a minimum, the candidate's ability to represent a client's interests in all pre- and post-grant proceedings established under the European Patent Convention (hereinafter "EPC") and the Patent Cooperation Treaty ("hereinafter "PCT"), in particular by:

- drafting claims of a European patent application or an international application;
- responding to a challenge of any kind to a European patent, a European patent application or an international application under Chapter II of the PCT;
- challenging a European patent, a European patent application or an international application; and
- advising on legal questions and drafting legal assessments.

(5) The examination consists of a foundation paper F and four main examination papers M1, M2, M3 and M4, with the following content:

(a) Paper F assesses whether a candidate can apply legal concepts and provisions of the EPC and the PCT.

(b) Paper M1 assesses whether the candidate can carry out tasks relating to the analysis and assessment of information and evaluate and act on instructions from a client. It further assesses whether the candidate can understand an invention and/or data provided by the client, assess the invention in view of prior art and analyse whether the invention and the application or patent comply with the provisions of the EPC.

(c) Paper M2 assesses whether the candidate can apply procedural and substantive patent law of the EPC and the PCT in both day-to-day and exceptional situations arising in the practice of professional representatives in proceedings before the EPO. It further assesses whether the candidate is familiar with all procedures established by the EPC and the PCT and with the procedural law referred to as forming part of the examination syllabus and in any further provisions laid down in the Implementing Provisions to this Regulation (hereinafter "IPREE"). At least 50% of the obtainable marks in paper M2 will be for free-text answers.

(d) Paper M3 assesses whether the candidate can assess, draft and develop patent documentation and submissions, based on documents and instructions from the client. It consists of three parts, each requiring a free-text answer:

(i) Part 1 of paper M3 requires at least the drafting of claims.

(ii) Part 2 of paper M3 requires the candidate to develop and present arguments showing why the invention and the application or patent comply with the requirements of the EPC or the PCT, and to amend claims if necessary.

(iii) Part 3 of paper M3 requires the candidate to develop and present arguments showing why the invention and the application or patent do not comply with the requirements of the EPC or the PCT.

(e) Paper M4 assesses whether the candidate can provide an answer in the form of a legal opinion responding to an enquiry from a client. The candidate is expected to reason, present and manage advanced procedural and substantive aspects of patent law.

(6) The examination is organised and conducted, in accordance with the provisions of this Regulation and the IPREE, by a Supervisory Board, an Examination Board, Examination Committees and an Examination Secretariat. Their responsibilities are defined in this Regulation and in the IPREE, both of which are published.

Article 2

Supervisory Board

(1) The Supervisory Board consists of two members from the EPO and two members from the Institute of Professional Representatives before the EPO (hereinafter "the Institute").

(a) The two members from the EPO are appointed by the President of the EPO from among the employees of the EPO. The two members from the Institute are nominated by the President of the Institute from among the members of the Institute and appointed by the President of the EPO.

(b) One deputy for the two EPO members and one for the two Institute members are appointed in accordance with (a) above.

(c)(i) A Chair is appointed for a term of two years by the President of the EPO from among the EPO members of the Supervisory Board. A Deputy Chair nominated by the President of the Institute from among the Institute members of the Supervisory Board is appointed for a term of two years by the President of the EPO.

(ii) When the term specified in (i) above expires, a Chair nominated by the President of the Institute from among the Institute members of the Supervisory Board is appointed by the President of the EPO for a term of two years. A Deputy Chair is appointed for a term of two years by the President of the EPO from among the EPO members of the Supervisory Board.

- (iii) For subsequent terms, the office of chair will alternate as provided in (i) and (ii) above.
- (2) The members and deputy members of the Supervisory Board are appointed for a term of two years and may be re-appointed for further terms of two years upon expiry of this term.
- (3) Members or deputy members of the Supervisory Board whose names are removed from the list of professional representatives before the EPO cease to be members of the Supervisory Board on the date of their removal and are not eligible for re-appointment as members or deputy members in their capacity as members of the Institute.
- (4) Members or deputy members of the Supervisory Board who retire or resign from the EPO cease to be members of the Supervisory Board on the date of their retirement or resignation and are not eligible for re-appointment as members or deputy members in their capacity as EPO employees.
- (5) If a member or deputy member ceases to be a member of the Supervisory Board by virtue of paragraph 3 or 4 above, a new member or deputy member will be appointed in accordance with paragraph 1(a) and (b) above to serve the remainder of the term.
- (6) The Supervisory Board is convened by its Chair. Three members constitute a quorum.
- (7) The Chair of the Supervisory Board may invite the Chair of the Examination Board and experts or advisers to assist the Supervisory Board as the circumstances may require.
- (8) The Chair may decide that a proposal is to be dealt with by written procedure and will then invite all members to inform the Examination Secretariat, within a reasonable period specified by the Chair, whether they approve the proposal. Replies by three members constitute a quorum.
- (9) All decisions of the Supervisory Board are taken by a simple majority of its members. The Chair has a casting vote.

Article 3

Duties of the Supervisory Board

- (1) The Supervisory Board fixes the number of Examination Committees needed for the examination and sets the date of the examination.
- (2) The Supervisory Board, in consultation with the Examination Board, determines the nature, structure and number of the examination papers and the time allowed for each.
- (3) The Supervisory Board monitors and evaluates the conduct and results of the examination. It also supervises the Examination Secretariat in its duties as specified in Article 9 below and its further duties as specified in the IPREE.
- (4) Before the draft budget of the European Patent Organisation is forwarded to the Administrative Council, the Supervisory Board will be afforded an opportunity to give its opinion on the appropriations for the examination.

(5) The Supervisory Board decides what statistical information should be compiled by the Examination Secretariat pursuant to Article 22(3) and to whom it should be disseminated.

(6)(a) The Supervisory Board adopts regulations concerning the conduct of the examination and fraudulent behaviour, including measures to be taken in the event of any failure to comply with those regulations.

(b) The Supervisory Board decides on the special conditions which may apply for disabled candidates sitting the examination.

(7) The Supervisory Board is authorised to draw up and amend the IPREE in accordance with this Regulation after consulting the Examination Board, the Examination Committees and the Examination Secretariat, as well as the President of the Institute. Prior to their adoption, the President of the EPO may refuse any provision resulting in an increased financial liability for the EPO.

Article 4

Examination Board

(1) The Examination Board consists of eight members.

(a) Four members are appointed by the President of the EPO from among the employees of the EPO. Four members nominated by the President of the Institute from among the members of the Institute are appointed by the President of the EPO.

(b) The provisions concerning the nomination and appointment of the Chair and the Deputy Chair of the Supervisory Board apply *mutatis mutandis* to the nomination and appointment of the Chair and Deputy Chair of the Examination Board.

(c) No member of the Supervisory Board may be a member of the Examination Board.

(2) The members of the Examination Board are appointed for a term of two years and may be re-appointed for further terms of two years upon expiry of this term.

(3) Members of the Examination Board whose names are removed from the list of professional representatives before the EPO cease to be members of the Examination Board on the date of their removal and are not eligible for re-appointment as members in their capacity as members of the Institute.

(4) Members of the Examination Board who retire or resign from the EPO cease to be members of the Examination Board on the date of their retirement or resignation and are not eligible for re-appointment as members in their capacity as EPO employees.

(5) If a member of the Examination Board ceases to be a member by virtue of paragraph 3 or 4 above, a new member will be appointed in accordance with paragraph 1(a) above to serve the remainder of the term.

(6) The Examination Board is convened by its Chair. Five members constitute a quorum.

(7) The Chair may decide that a proposal is to be dealt with by written procedure and will then invite all members to inform the Examination Secretariat, within a reasonable period specified by the Chair, whether they approve the proposal. Replies by five members constitute a quorum.

(8) All decisions are taken by a simple majority of the members of the Examination Board present. The Chair has a casting vote.

(9) If, exceptionally, a decision needs to be taken on the content of the examination or its duration while it is taking place, the Chair is entitled to take this decision on their own.

Article 5 Chair

When the Chair of the Supervisory Board is an employee of the EPO, the Chair of the Examination Board must be a member of the Institute, and vice versa.

Article 6 Duties of the Examination Board

(1) The Examination Board advises the Supervisory Board on the conduct and results of the examination.

(2) Subject to the IPREE, the Examination Board gives the members of the Examination Committees instructions for:

- (a) preparing the examination papers
- (b) preparing the marking sheets
- (c) marking candidates' answers consistently.

(3) The Examination Board

(a) appoints the Chair of each Examination Committee from among the members of that Committee

(b) evaluates the content of the draft examination papers and marking sheets, instructs the Examination Committees to amend them where necessary and makes the final selection.

(4) The Examination Board decides on the list of books and documents, including case law, which may be used by candidates during the examination.

(5) The Examination Board scrutinises the marks proposed by the Examination Committees for each answer paper or part of an answer paper and decides whether a candidate should pass or fail the examination. The Examination Board may revise candidates' marks or instruct the Examination Committees to re-mark their papers according to a revised marking sheet.

(6) After the examination, the Examination Board transmits to the Examination Secretariat a report on each examination paper (examiners' report) and a possible solution that have been prepared by the relevant Examination Committee. The report and the possible solution will be published in an examination compendium to enable candidates to prepare for future examinations as specified in the IPREE.

(7) The Examination Board performs such other duties as may be defined in the IPREE, including advising and deciding on general matters relating to the marking of papers.

Article 7

Examination Committees

(1) The EPO and Institute members of the Examination Committees are appointed by the President of the EPO on a proposal from the Examination Board. No member of the Supervisory Board may be a member of an Examination Committee.

(2) Members of the Examination Committees have the status of either active or non-active members. Non-active members do not participate in any committee activities until their status is changed to that of active members.

(3) The Examination Committees consist of equal numbers of EPO and Institute members. This proportion may, however, be varied in circumstances specified in the IPREE.

(4) The members of the Examination Committees are appointed for a term of two years and may be re-appointed for further terms of two years upon expiry of this term.

(5) All members of the Examination Committees must have obtained the minimum grades required for the examination papers as specified in the IPREE. The President of the EPO may, in individual cases, grant exceptions subject to a reasoned opinion from the Examination Board.

(6) Members of the Examination Committees whose names are removed from the list of professional representatives before the EPO cease to be members of the Examination Committees on the date of their removal and are not eligible for re-appointment as members in their capacity as members of the Institute.

(7) Members of the Examination Committees who retire or resign from the EPO cease to be members of the Examination Committees on the date of their retirement or resignation and are not eligible for re-appointment as members in their capacity as EPO employees.

(8) In special circumstances, the Examination Board may grant exceptions to paragraphs 6 and 7 to allow members to complete their term and be re-appointed for one further term only.

(9) If a member ceases to serve on an Examination Committee by virtue of paragraph 6 or 7 above, a new member may be appointed in accordance with paragraph 1 above to serve the remainder of the term.

Article 8 Duties of the Examination Committees

(1) Subject to Article 6(2), the Examination Committees

(a) are entrusted with the preparation of the examination papers

(b) are entrusted with the preparation of the marking sheets

(c) provide the Examination Board with any relevant information relating to (a) and (b)

(d) mark the answer papers and make a proposal for the grades to be awarded for each one.

(2) Each answer paper is marked by two committee members separately and/or by autoscoring as defined in the IPREE.

(3) The Examination Committees advise the Examination Board on the list of books and documents, including case law, which may be used by candidates during the examination.

(4) The Examination Committees perform such other duties as may be defined in the IPREE.

Article 9 Examination Secretariat

(1) The Examination Secretariat (hereinafter "the Secretariat") consists of employees of the EPO. The President of the EPO provides the Secretariat with the necessary appropriations for running the examination.

(2) The Secretariat

(a) supports the Supervisory Board, the Examination Board and the Examination Committees in their duties

(b) prepares and organises the examination

(c) decides on the registration and enrolment of candidates in accordance with this Regulation and the IPREE

(d) publishes the compendium and any other information relating to the examination or its conduct.

Article 10

Functioning of the Examination Board, Examination Committees and Examination Secretariat

(1) In performing their duties and taking decisions relating to the setting, drafting and marking of the examination papers, the members of the Examination Board and Examination Committees are bound by and comply with the provisions of this Regulation and the IPREE only.

(2) In performing its duties relating to registration and enrolment, the Secretariat is not bound by any instructions and complies only with the provisions of this Regulation and the IPREE.

Article 11

Conditions for registration and enrolment

(1) Candidates are registered for the examination on request, provided that they:

(a) possess a university-level scientific or technical qualification, or are able to satisfy the Secretariat that they possess an equivalent level of scientific or technical knowledge, as defined in the IPREE, and

(b) have started a professional activity defined in paragraph 2.

(2)(a) Subject to paragraph 1, candidates who apply to be enrolled for one or more examination papers must be able to satisfy the Secretariat that at the date of the examination paper they have performed one or more of the professional activities defined in subparagraph (b) for a duration of:

- at least one year for taking the foundation paper F,
- at least two years for taking the main examination papers M1 and M2, and
- at least three years for taking the main examination papers M3 and M4.

(b) The professional activities referred to in subparagraph (a) above are:

(i) full-time training in one of the EPC contracting states under the supervision of one or more persons entered on the list of professional representatives before the EPO (Article 134(1) EPC) as an assistant to that person or those persons, including taking part in a wide range of activities pertaining to European patent applications or European patents, or

(ii) full-time work in the employment of a natural or legal person whose residence or place of business is within the territory of the EPC contracting states, including representing that employer before the EPO in accordance with Article 133(3) EPC and taking part in a wide range of activities pertaining to European patent applications or European patents, or

(iii) full-time work as an examiner at the EPO.

(c) Full-time training pursuant to paragraph 2(b)(i), full-time work pursuant to paragraph 2(b)(ii) and full-time work as an examiner at the EPO pursuant to paragraph 2(b)(iii) may not be performed concurrently.

(3) Periods of professional activity referred to in paragraph 2 may be aggregated to make up a cumulative full-time period. Only periods of professional activity after the qualification required in paragraph 1(a) has been obtained will be considered, subject to any further provisions laid down in the IPREE.

(4) In determining the activities referred to in paragraph 2(b)(i) and (ii) the Secretariat also takes into account candidates' activities in proceedings relating to national patent applications and national patents.

(5) Under the conditions laid down in the IPREE, the Secretariat may grant a reduction, of up to one year, in the duration of the periods of professional activity defined in paragraph 2(a) above.

(6) An application for registration and/or enrolment for the examination is not deemed to have been filed until the prescribed fees have been paid within the period laid down in the notice specified in Article 18.

(7) Members of the Supervisory Board, the Examination Board, the Examination Committees and the Secretariat are not entitled to enrol for the examination. Former members of these bodies who satisfy the requirements of paragraphs 1 and 2 will be entitled to enrol, at the earliest, for the third examination following the expiry of their term of office.

Article 12

Languages

(1) The examination papers are drawn up in the three official languages of the EPO and all candidates receive them in all three languages.

(2) The candidates' answers are given in one of the three official languages of the EPO unless otherwise prescribed in accordance with paragraph 3.

(3) The IPREE may contain special provisions concerning the use of an official language of a contracting state other than one of the official languages of the EPO.

Article 13

Examination syllabus

The examination establishes whether a candidate has

(1) a thorough knowledge of

(a) European patent law as laid down in the EPC and the legislation relating to European patents with unitary effect relevant for professional representatives.

(b) the Paris Convention (Articles 1 to 5*quater* and Article 11)

(c) the Patent Cooperation Treaty

(d) all decisions of the Enlarged Board of Appeal and EPO case law as specified in the IPREE, and

(2) a general knowledge of

(a) the national laws of the EPC contracting states, extension states and validation states to the extent that they apply to European patent applications and European patents; and

(b) the national laws applied by the IP offices defined in the IPREE to the extent that they are of importance in connection with proceedings before the EPO.

Article 14 **Passing the examination**

(1) Subject to paragraph 2, candidates are declared to have passed the examination if they pass each of the examination papers.

(2) Candidates who have been enrolled in accordance with Article 11(2)(b)(iii) are declared to have passed the examination provided they fulfil the requirements laid down in paragraph 1 and are able to satisfy the Secretariat that they have spent at least one year in any of the capacities defined in Article 11(2)(b)(i) or (ii).

Article 15 **Choice of papers**

When enrolling, candidates must indicate which paper or papers they intend to sit.

Article 16 **Re-sitting the examination**

(1) Candidates who fail the examination may only re-sit a paper or papers they did not pass.

(2) The IPREE may contain special provisions concerning re-sitting and in particular specify the increment in the fees for re-sitting one or more examination papers.

Article 17 **Fees**

The President of the EPO lays down the amount of the fees provided for in this Regulation after the Institute has been consulted. Further provisions relating to the structure of these fees are specified in the IPREE.

Article 18

Notice concerning the examination

A notice concerning the examination will be published in the Official Journal of the EPO, specifying the dates of the sessions, the dates by which applications for enrolment must be filed and the documents required.

Article 19

Communications

- (1) Any communication concerning the examination is to be addressed to the Secretariat.
- (2) The Secretariat will inform candidates in writing whether their registration or enrolment has been accepted. In cases of refusal a reasoned decision will be given.
- (3) Enrolled candidates will be informed in writing of the date and time of the examination. Information relating to this Regulation, the IPREE and any material considered relevant by the Supervisory Board will be made available to candidates.

Article 20

Examination format

The examination is held online, with the same papers being made available to candidates simultaneously.

Article 21

Anonymity

- (1) Candidates' anonymity is respected when their answers are marked.
- (2) Candidates' answers may be published for research, statistical or training purposes provided their anonymity is respected.

Article 22

Results

- (1) A list of candidates who have been successful in the examination will be published in the Official Journal of the EPO.
- (2) The Secretariat will make available to the candidates a copy of their own answers.
- (3) The Secretariat is responsible for compiling statistical information concerning the results of the examination and will disseminate this information in compliance with Article 3(5).

Article 23

Professional secrecy

Subject to Articles 21(2) and 22, the members and deputy members of the Supervisory Board and the members of the Examination Board, the Examination Committees and the Secretariat are bound to secrecy both during and after their term of office with regard to all matters concerning the preparation of examination papers, the candidates and any relevant deliberations.

Article 24

Appeals

(1) An appeal lies from decisions of the Examination Board and the Secretariat which adversely affect the appellant, but only on the grounds that this Regulation or any provision relating to its application has been infringed.

(2) Notice of appeal including the statement setting out the grounds for appeal must be filed in writing with the Secretariat within one month of the date of notification of the decision appealed against. Notice of appeal is not deemed to have been filed until the fee for appeal specified pursuant to Article 17 has been paid within the period of one month specified above.

(3) If the Examination Board or the Secretariat considers the appeal to be admissible and well-founded, it will rectify its decision and order reimbursement of the fee for appeal. If the appeal is not allowed within two months of notification of the decision, it will be remitted to the Disciplinary Board of Appeal of the EPO. Notwithstanding Article 10(1) of the Regulation on discipline for professional representatives, the Disciplinary Board of Appeal will take its decision in a composition consisting of two legally qualified members of the EPO and one professional representative. The Chair will be a legally qualified member.

(4) Part IV of the Regulation on discipline for professional representatives applies *mutatis mutandis* to the procedure before the Disciplinary Board of Appeal. If the appeal is admissible and well-founded, the Board of Appeal will set aside the decision appealed against. If the Board of Appeal allows the appeal or if the appeal is withdrawn, it will order reimbursement in full or in part of the fee for appeal if this is equitable in the circumstances of the case.

(5) The lodging of an appeal does not suspend the decision against which the appeal has been lodged.

Article 25

Transitional provisions

(1) Subject to paragraph 3, examination papers sat and passed before the entry into force of this Regulation are taken into account as set out in paragraph 2.

(2) If candidates have passed

(a) the pre-examination, they are exempted from sitting foundation paper F and main examination paper M1;

(b) Paper A, they are exempted from sitting part 1 of main examination paper M3;

(c) Paper B, they are exempted from sitting part 2 of main examination paper M3;

(d) Paper C, they are exempted from sitting part 3 of main examination paper M3;

(e) Paper D, they are exempted from sitting main examination papers M2 and M4.

(f) any of papers A, B or C under a past version of this Regulation which did not provide for a pre-examination, or where no pre-examination was held in the year before they passed paper A, B or C, they are exempted from papers F and M1 and the corresponding part of paper M3 in accordance with subparagraphs (b) to (d) above.

(g) Paper D under a past version of this Regulation which did not provide for a pre-examination, or where no pre-examination was held in the year before they passed paper D, they are exempted from papers F, M2 and M4.

(h) all the main examination papers but do not yet fulfil all requirements of Article 14(2) of the Regulation of 2009, they are considered to have passed all papers under this Regulation. In this case, paragraph 4 below does not apply.

(3) These transitional provisions apply if a candidate obtained a pass in the relevant examination papers which was still valid in accordance with past versions of this Regulation.

(4) These transitional provisions will apply for a maximum of five years from the first time a candidate avails themselves of an exemption under this Regulation.

(5) Article 11(7) applies to all previous members of the Examination Board, Examination Committees and the Secretariat within the meaning of past versions of this Regulation.

(6) From the entry into force of this Regulation, the pre-examination according to the Regulation of 2009 and the IPREE dated 13 December 2018 will no longer be held; candidates eligible for the pre-examination on the date of the 2025 examination will be exempt from the pre-examination.

(7) Once candidates have enrolled for a paper under this Regulation, they can no longer enrol for a paper under the Regulation of 2009.

Article 26

Amendment of the Regulation

The Institute is consulted before the Administrative Council exercises its competence to amend this Regulation under Article 134a(1)(b) EPC.

Article 27

Entry into force and date of application

This Regulation

(1) enters into force on 1 January 2025

(2) replaces the Regulation of 2009, unless otherwise provided below, and applies to the examination as follows:

(a) In 2025, paper F will be sat in accordance with this Regulation. Papers A, B, C and D as defined in the IPREE dated 13 December 2018 remain governed by the Regulation of 2009; this includes all provisions relating to the bodies envisaged therein and to any decisions, appeals or further procedures relating to these papers.

(b) In 2026, papers F, M1 and M2 will be sat in accordance with this Regulation. Papers A, B, C and D as defined in the IPREE dated 13 December 2018 remain governed by the Regulation of 2009; this includes all provisions relating to the bodies envisaged therein and to any decisions, appeals or further procedures relating to these papers.

(c) For the 2026 examination only, candidates may choose to sit part 1 of paper D under the Regulation of 2009 instead of paper M2.

(d) From 2027, all examination papers will be sat in accordance with this Regulation.

(3) During a period of one year preceding the entry into force of this Regulation, the existing bodies under the Regulation of 2009, namely the Supervisory Board, the Examination Board, the Examination Committees and the Examination Secretariat, are competent to take all measures to implement this Regulation.