

EXAMINER'S REPORT

A) General remarks

Questions were distributed across all modules of the EPAC syllabus, with a deliberate mix of difficulty levels.

This year, we gave one point to all candidates for question 5 in the multiple choice because the lists were not available in the external resources during the exam. Further, the difficulty of part 2 was taken into account during marking.

It should be emphasised that whilst the EPAC examination is “open books”, with access to searchable documentation on the EPO website, it is not expected that candidates should check every response, thus have enough time for that; to the contrary, it is expected that candidates know the basics and feel confident enough to refrain from double checking.

The percentage of candidates achieving the required number of correct answers in the first part was 76%. [insert the “bell” curve showing the maximum at 8/15] Of those candidates, 48% also passed the second part which results in a final pass rate of 37 %.

B) First part: multiple choice questions

Questions 2, 7, 8 and 11 were very well answered while questions 3, 4, 9, 12 and 15 were not. The rate of correct answers for the remaining questions was around 2/3.

C) Second part: open questions

Time limits must be computed when the necessary information is available. Candidates give general answer (Rules of the EPC or Guidelines) but do not apply it to the case-scenario given, which results in no/less points as they do not provide the specific date (but for example “2m from date of communication”). To the extent the 2026 EPAC examination will include auto-scoring questions, it will be mandatory to provide dates when dates are requested.

In general, candidates should practice the reading of questions; too many answers reflect that the candidates have not read the question because they do not provide an answer to the question. Candidates should make statements to reply to exam questions and avoid using “if” sentences or “may” (or even alternatives). No points were given for vague wording (e.g., “all pending fees”) when specific fees were requested.

Question 1:

This question was generally well answered.

However, some candidates mentioned a SISR instead of filing a Demand, although the question required a report drafted by the EPO considering the applicant's arguments on objections raised in the written opinion.

Most candidates suggested filing a Demand but almost all omitted the inclusion of arguments.

Some believed the handling fee had to be paid directly to the IB.

The need to file a translation of the application was most often overlooked.

Many did not realize that, since the EPO was not ISA, the WO-ISA is not considered the first written opinion for Chapter II PCT procedures. The applicant will receive two written opinions or a first

written opinion and a telephone consultation before a negative IPER is issued. Points were awarded if candidates mentioned that the applicant could have more than one opportunity to comment.

Question 2:

This question was generally well answered.

Only few candidates mentioned that automatic debit order needed to be actively requested.

The question expressly specified that the applicant wished the widest territorial protection, but many candidates did not mention the extension and validation states, nor did they name them. Just mentioning the possibility to pay the extension/designation fees without realising that the situation requires payment was insufficient.

Question 3:

This question was fairly answered although often not thoroughly. Many candidates realized that a declaration of micro-entity status had to be filed but few candidates managed to deal with all aspects of the question (actions, costs, acceleration).

Question 4:

This question was poorly answered. Some candidates are not aware of the possibility of early processing of a Euro-PCT application.

Many candidates spotted that no waiver of the right to a communication pursuant to Rules 161/162 EPC had been filed. However, it appears that candidates were not fully comfortable with the translation requirements: For the search to start, it was necessary to file also a translation of the abstract and the claims as originally filed.

Question 5:

This question was generally poorly answered.

In the question, it was stated that a request for unitary effect had been validly filed. Thus, it was not necessary to file any translation as this had already been done. However, it was necessary for applicant D to confirm the request; whilst there was support for that requirement in the UP Guidelines (2.2.1), it was equivalent for the candidates to realise that the request for unitary effect did not mention the correct (new) proprietor (thus triggering a communication mentioning the deficiency).

The part on the compensation scheme was fairly answered. It is a basic requirement that both the original applicant and the Proprietor requesting the translation must be entitled when there has been a transfer.

Most candidates identified that the next annuity was for the 3rd year. Many candidates did not explicitly mention that the annuity was due for the unitary patent, however most acted as if it was. The earliest date to pay the renewal fee was not well answered: whilst there is no explicit legal basis, a renewal fee cannot be validly paid before the title (the unitary patent) exists, and *a fortiori* before the European patent is granted (the three-month period mentioned by some candidates fell before the decision to grant). Most candidates referred to the three and six-month grace periods, however several did not realise that the starting point was not the same in the situation of the question.

Question 6:

This question was generally well answered. Most of the candidates are familiar with responding to a partial search report.

Surprisingly, quite a few candidates could not compute the time limit for replying to the communication provided in pdf.

To obtain full points, the candidates needed to specify which fees/surcharge needed to be paid for further processing.