Europäisches Patentamt
European Patent Office
Office européen des brevets

Learning path for patent administrators

The European patent system: EPAC – entry level

Version: April 2025

Introduction

This publication, "The European patent system, EPAC – entry level", is part of the "Learning path for patent administrators" series is edited and published by the European Patent Academy. The series is intended for patent administrators who are taking part in training and certifications organised by the European Patent Office (EPO). It is also freely available to the public for independent learning.

Topics covered include: general aspects of the patent system; the European patent system and the European patent granting procedure; the International Patent System (PCT) and the PCT procedure; European and international publications; filing a European patent application and filing an international application; the formalities during the European and during the international search; the formalities during the European examination and during the international preliminary examination; the formalities during the appeal procedure after refusal (EPC), during the opposition procedure (EPC); national validation (EPC); entry into national/regional phases and entry into the European phase (PCT).

Each chapter focuses on one topic at entry, intermediate or advanced level, as appropriate. The series will be revised annually to ensure it remains up to date.

Disclaimer

All references to natural persons are to be understood as applying to all genders.

Contents

1. Learning objectives

Participants in this course will learn:

- about the EPO as patent granting authority
- which legal framework governs the European patent system
- the definition of designated states, extension and validation states
- what are the relevant legal sources of information
- which are the EPO online databases and services
- what the MyEPO is
- the principle of representation before the EPO

2. The European Patent Office (EPO) as a granting authority

A European patent is granted after an examination designed to establish whether the European patent application and the invention to which it relates comply with the patentability requirements of the EPC. These requirements are the basis not only for the granting of a European patent, but also for the assessment of its validity by national courts. In addition to this and under the EPC, the extent of the protection conferred by the European patent is determined uniformly for all the contracting states.

The European patent grant procedure consists of two stages. A first stage comprises an examination on filing, formalities examination, preparation of the European search report, opinion on patentability and publication of the application together with the search report. A second stage comprises the substantive examination.

After the grant of the patent there may be opposition ("ex parte" proceedings involving one or more opponents as third parties), revocation or limitation (proceedings which are initiated by the patent proprietor) and appeal (may be filed by any party to the proceedings adversely affected by a decision). Decisions on appeals are taken by the boards of appeal. Any party to appeal proceedings adversely affected by the decision of the board of appeal may file a petition for review by the Enlarged Board of Appeal under certain circumstances, (EP Guide, Chapter 5, 5.7.4)

3. The European Patent Convention (EPC) and the EPC Guidelines

The European Patent Convention (EPC) provides an autonomous legal system for the granting of European patents via a single, harmonised procedure before the EPO.

The EPC was signed in 1973 in Munich and entered into force on 7 October 1977. The current 27^{the} edition (November 2020) is available from the EPO website.

The EPC constitutes a special agreement within the meaning of the Paris Convention for the Protection of Industrial Property. Also, the EPC further constitutes a regional patent treaty within the meaning of Article 45(1) PCT, which means that European patents can be granted on the basis of an international application filed under the Patent Co-operation Treaty (PCT).

The Guidelines for Examination in the EPO (EPC Guidelines) give instructions on the practice and procedure to be followed in the various aspects of the examination of European applications and patents in accordance with the European Patent Convention and its Implementing Regulations.

The March 2024 edition entered into force on 1 March 2024, superseding the March 2023 edition. The corresponding notice published in the Official Journal (OJ EPO 2024, A9) lists the main updates.

Legal references:
Art. 87-89 EPC; Art. 150-153 EPC
Art. 45(1) PCT
R. 157 EPC to R. 165 EPC
GL E-IX;
EP Guide, Chapter 5, 5.7.4

4. Contracting, extension,validation states and designated states

Contracting states are countries having ratified the European Patent Convention. They are thus members of the European Patent Organisation. The list of all these contracting states can be found on the EPO website. There are 39 contracting states (March 2025).

Between 1993 and 2009, the European Patent Organisation signed extension agreements with ten non-member states. The agreement with Bosnia and Herzegovina is still in force. With these agreements, a European patent application and a granted European patent have the same legal effect as a national patent application and national patent on the territory of the extension state. Extension agreements are international agreements.

Since 2010, the European Patent Organisation has signed validation agreements with seven non member states. Kingdom of Morocco, Republic of Moldova, Republic of Tunisia, Kingdom of Cambodia, Georgia, Lao People's Democratic Republic (all in force), and Costa Rica (ratifications pending). With these agreements, a European patent application and a granted European patent have the same legal effect as a national patent application and national patent on the territory of the validation state. Validation agreements are international agreements.

Designated contracting states are the countries the applicant enters in the patent application at the time of filing as the ones in which protection is sought for the invention. In each contracting state for which it is granted, a European patent gives its proprietor the same rights as would be conferred by a national patent granted in that state.

All contracting, validation and extension states on the date of filing of the application are deemed to be designated states under Art. 79(1) EPC.

The designation of contracting states is subject to the payment of a "designation" fee under Art. 79(2) EPC and pursuant to Rule 39 EPC. For extension and validation states, an extension fee and a validation fee have to be paid in a similar manner.

The basic time limits for payment of the designation, extension and validation fee(s) are:

- six months after publication of the European search report (under Rule 39(1) EPC for EP files)

- six months after publication of the International search report or the filing date or earliest priority + 31 months, whichever expires later (under Rule 159(1)(d) EPC for Euro PCT files and in case of valid early entry into the European phase)

Legal references:
Art. 59 EPC; Art. 79(1) EPC; Art. 79(2) EPC
Rule 39 EPC; Rule 134 EPC; Rule 159(1)(d) EPC
G 4/98 (annex I)
Art. 7(3)(a) RFees; Art. 7(3)(b) RFees; Art. 7(4) RFees

5. Relevant sources of information

The authentic texts of the EPC and the Guidelines are given in two EPO publications, the European Patent Convention and the Guidelines for Examination in the European Patent Office, both available on the EPO website.

Beyond the EPC and the Guidelines, the website of the EPO provides users with other relevant publications.

In particular, the EPO booklet entitled "National law relating to the EPC" contains detailed information on the regulations and requirements governing European patent applications and patents in the contracting, extension and validation states. The "Euro-PCT Guide" deals with this filing route in order to obtain patent protection in Europe on the basis of an international application filed under the PCT.

Legal references:
Art. 52(2) EPC; Art. 54(3) EPC; Art. 82 EPC
Rule 43 EPC; Rule 128 EPC
GL F-II, 4.2; GL G-IV, 5.3

6. Overview of EPO online databases and services

The website of the European Patent Office provides access to a number of online databases. The following three databases are in particular relevant for the daily processing of European patent applications and patents:

- Espacenet - a free online searchable database comprising more than 150 million patent documents from around the world
- European Publication Server - provides free access to all EP documents published on a weekly basis according to the decision of the President of the EPO dated 22 December 2004
- European Patent Register - provides direct access to all the publicly available information on European patent applications as they pass through the granting procedure

The EPO proposes two types of databases or services:

Public access databases:

- Espacenet
- European Patent Register

- European Publication Server
- database of professional representatives
- EP bibliographic data
- Linked open EP Data
- online training
- Open Patent Services
- oral proceedings calendar
- schedule of fees
- search patent-related events
- search in the boards of appeal decisions
- third-party observations

Password access services:
- central fee payment
- EP full-text search
- Open Patent Services
- raw data download
- shop

Via EPO account: Two-factor authentication:
- MyEPO (MyEPO Portfolio renamed to MyEPO as of 1 April 2025)
- Central Fee Payment
- Online Filing
- Online Filing 2.0
- ePCT Filing (only for PCT files, EPO acting as RO, ISA or IPEA)
- CUS

Software downloads services:
- IPscore
- Multipay
- Online Filing
- sequence submission tools

Legal references:
Art. 52(2) EPC; Art. 54(3) EPC; Art. 82 EPC
Rule 43 EPC; Rule 128 EPC
GL F-II, 4.2; GL F-IV, 5.3

7. MyEPO

MyEPO is part of the EPO integrated suite of MyEPO services that makes it easy for a patent applicant, opponent or representative, to conduct their EPO business. Within this suite of services, MyEPO is the place for interacting with the EPO during EP, UP and PCT proceedings: access to procedural data, procedural guidance, direct interaction with the EPO on files, and exchange of digital information.

MyEPO replaces the My Files, Administration and legacy Mailbox services, which were all decommissioned in June 2024.

MyEPO offers representatives, paralegal staff, applicants and opponents who have not appointed a professional representative:

- easy access to portfolios of applications, including direct access to the digital files associated with each application filed with us
- fully operational access to their Mailbox, including options to create email alerts for new communications, pending tasks and deadlines
- the ability to reply directly to selected EPO communications, with streamlined procedural actions and procedural guidance
- the ability to request changes about their applications
- a shared area for live interaction with examiners on documents
- a representative area for updating data in the list of professional representatives.
- Further, MyEPO offers company administrators:
- the possibility to manage user permissions, access to the Mailbox and application portfolios, and fee payment rights.

Detailed list of features

With MyEPO users can:

- Receive and process your Mailbox communications from the EPO
- View your portfolio of patent applications and granted patents
- View the content of the digital file for an application or a granted patent with pending proceedings.
- Interact live with examiners on documents
- Perform procedural acts within the prescribed period in:
    - reply to a communication about the intention to grant the European patent (Rule 71(3) EPC)
    - reply to a communication under Article 94(3) EPC
    - reply to the extended European search report (Rule 70a EPC)
    - reply to an invitation about subject-matter for search (Rules 62a and 63 EPC)
- Request changes to applications:
    - Change or withdrawal of representation
    - Changes to bibliographic data
    - Withdrawal of application
- Grant other users access to your portfolio, so as to delegate the drafting of submissions
- Set up email alerts for new communications, tasks or deadlines
- Update personal details in the list of professional representatives before the EPO

Improved access

The functionalities of the legacy Mailbox and My Files services have been integrated into the MyEPO with an interface that is user-friendly, intuitive and easy to access: documents are viewed in the digital file, with access to documents in their original data format, including parts in colour where available.

Mailbox access is available to international agents and non-European parties acting before the EPO under the PCT.

Procedural guidance

MyEPO provides information about pending tasks in reply to a communication from the EPO and the associated deadlines. It offers a simplified approach to making procedural submissions.

Users are guided through the process with procedural information, and plausibility checks and validations help reduce the risk of error.

Direct interaction with the EPO on files

MyEPO provides a personal shared area where users can upload, review, edit and annotate documents together with examiners during a live consultation. This real-time interaction increases quality, transparency as well as efficiency.

Exchange of digital information

MyEPO allows users to download data about your application portfolios, pending tasks and Mailbox communications, including links to the digital file.

Users can upload information when performing procedural acts in reply to a communication from the EPO.

Business-to-business interfaces (APIs) are regularly made available so that users can automate exchange of data between their IP management systems and MyEPO services. The first available API allowed users to download documents and data from their Mailbox.

Legal references:
OJ EPO 2022, A51

8. Representation before the EPO

Applicants with residence or principal place of business in an EPC contracting state shall not be compelled to be represented by a professional representative but may decide to be represented by an authorised employee, a professional representative. One applicant may also act on behalf of all applicants of a given European patent application (common representative).

Any applicant not having their residence or principal place of business in a contracting state may file an application, appoint a representative (or withdraw authorisation). However, these applicants must be represented by a professional representative for all further steps before the EPO.

The conditions that professional representatives must meet are detailed in Art. 134 EPC.

Professional representatives must have:

- names that appear on the public list maintained by the EPO (nationals of & with a place of business in a contracting state)

- passed EQE
- an epi membership. The epi is the Institute of Professional Representatives before the EPO
- the need for an authorisation only in exceptional cases

Legal practitioners:

- are entitled to act as representative in patent matters in a contracting state and have a place of business in that state

As of 1 November 2024, legal practitioners are no longer required to file an authorisation in general, unless upon invitation from the EPO (Art. 1 of the decision of the President of the EPO dated 8 July 2024 on the filing and signing of authorisations, OJ EPO 2024, A75). Thus, legal practitioners are aligned with professional representatives and need to file an authorisation when a change of representation takes place where the former representative has not withdrawn from representation, or upon invitation from the EPO (e.g. where there is doubt as to the legal practitioner's entitlement to act).

Employees of applicants (legal persons or natural persons) having their residence or place of business in a contracting state:

- may only represent their direct employers
- do not need to be a professional representative
- always need an authorisation (EPO Forms 1003/1004)

Legal references:
Art. 133 EPC; Art. 134 EPC; Art. 134a EPC
Rule 41(3) EPC; Rule 151 EPC; Rule 152 EPC
GL A-III, 2; GL A-VIII

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