Consultation results of the 26th SACEPO WP/G meeting on 10 October 2023 – EPC Guidelines

#	Part	Comment	Suggestion	Consultation results
1	General comment for the whole EPC Guidelines:	Various sections renumbered (see separate tab). However, although we acknowledge that renumbering is essential in particular cases, it may be renumbering is very inconvenient for users, esp. when referring to the Guidelines in search opinions/office actions or in responses thereto when drafting those, when checking earlier communications or earlier responses for Guidelines references (where the referred paragraph does no longer exist or has a different content) and also for EQE candidates, tutors and editors of reference material and Q&A books, and drafters of EQE papers and their Examiners Reports, who all extensively refer to the Guidelines sections. Examples of unnecessary renumbering: A II 1.1, 1.2 and 1.1.1 E-II 2.3 and 2.4 are switched and now not anymore in the same sequence as the Rules (now 127 126).	It is requested to keep the numbering as consistent as possible between the various editions of GL/EPI and GL/PCT-EPO, as well as the Euro-PCT Guide. I.e., it is requested to keep the numbering the same unless it is absolutely necessary to change it.	The Office confirmed that the issue raised by users has been duly noted and that it is also the Office's intention to limit renumbering of sections to what is strictly necessary. The renumbering of the sections cited as examples was necessary as one important aim of this year's revision was "digital first", as agreed with users at the SACEPO WP/G meeting on 4 May 2023. There were no further comments from SACEPO WP/G members.
2	General comments		Add new part (Part I) directed to UP matter	The Office explained that the Guidelines address the European patent grant procedure. The Office referred to the Unitary Patent Guide and the information available on its website. There were no further comments from SACEPO WP/G members.
3	GP I	A sentence was added " In general, each edition is updated to reflect the situation as at 1 December of the previous year." It is appreciated that the cut-off date is indicated explicitly. However, why be bound by a specific date? Consider the situation where an	It is suggested that "*In general, each edition is updated to reflect the situation as at 1 December of the previous year*." Is replaced by:	The Office explained that this change had been made following discussions at the SACEPO WP/G meeting on 4 May 2023. The current wording gives the Office sufficient discretion to incorporate very important developments which may occur

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		important EBA decision are taken on 2nd December??? Further, the Guidelines enter into force on 1 March, such that a complete 3 months of legal developments would not be covered, while the same section says that the Guidelines are binding (to the examiners of the EPO). This leaves an uncertainty as to what the legal effect if of any Decision of the President, Notice of the EPO or other legal text getting into force in those 3 months and what the effect is if an examiner does not take those "later" texts into account. Further, the section says "The **binding** version of the Guidelines for Examination in the European Patent Office is published by the EPO in searchable HTML format on the internet at epo.org." (emphasis present in the original text). This suggests that the HTML version may be different, in particular more up-to-date, than the pdf version / the official version of 1 March. Lastly, it is doubted whether the HTML version, if it would be(come) different can be binding as, the Notices in OJ EPO introducing the new editions of the Guidelines always indicate that "the amended EPC Guidelines, **which will enter into force on 1 March 2023**, will be published as a complete March 2023 edition that **will supersede the March 2022 edition.**" (example from OJ 2023, A6) This clearly indicates that **only** the 1 March 2023 version is a legal version.	"~~*In general, each*~~ *this edition is updated to reflect the situation as* ~~*at 1 December of the previous year.*~~/Update date/" Further: It is requested to indicate that legal developments after the update date (e.g. 1 December) of the previous year (and not just those after the date of entry into force of the new edition, 1 March) need to be taken in to account by the examiner and EPO formalities and that they are the applicable provisions where they supersede the Guidelines. It is further requested that the EPO maintains an up-to-date page in the EPO Guidelines webpages indicating which section or item in the Guidelines will be/has been superseded by legal developments and as of which date. This could be done on a separate page, or as annotations to the relevant HTML Guidelines pages, together with an hyperlinked index indicating where such annotations are made. Lastly, where it is already known that a legal change will occur after the update date, it is requested that the Guidelines include a brief comment to draw the user's attention thereto (as was done with the R.126(2) change per 1/11/2023 in the'1/3/2023 version).	after 1 December, such as a decision of the Enlarged Board of Appeal. Legal changes entering into force after the cut-off date for the following edition of the Guidelines are rather exceptional. However, if such legal developments do take place, instructions are duly issued to EPO formalities officers and examiners. The Office took note of members' wish for enhanced transparency in the event of legal changes which take effect after the entry into force of the Guidelines, and confirmed that it would investigate the available options. Regarding providing timely information to users, the Office drew attention to the example of amended Rule 126 EPC, which was pre-announced in the current edition of the Guidelines. The Office acknowledged the importance of highlighting important forthcoming legal changes in the Guidelines and, where possible, will continue the practice of announcing any anticipated changes in the Guidelines, even if only at short notice. Members proposed adding a new subsection on the Guidelines web page drawing attention to new case law. It was agreed that the "Legal texts" landing page already provided a link to Case Law of the Boards of Appeal, the HTML version of which highlights the most

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				recent decisions in the relevant subsections. There were no further comments from SACEPO WP/G members.
4	GP 2.2	**2.2** – List of abbreviations The abbreviation "rec." seems superfluous – can be deleted. It pops up only once (F-III 6.1). The list of references to OJ 2023 in relation to the "Re March 2024 update" is still empty	It would be better to arrange the abbreviations alphabetically, preferably with the PCT abbreviations is a separate list. In addition, a separate list could be created for abbreviations relating to the unitary patent, at least for abbreviations that are used in the present version. We suggest to include at least the following abbreviations: − "UPR" for the Rules relating to Unitary Patent Protection (OJ EPO 2022, A41) − "RFeesUPP" for Rules relating to Fees for Unitary Patent Protection (OJ EPO 2022, A42) − "UPPreg" for the Unitary Patent Protection Regulation (in full: Council Regulation (EU) No 1257/2012 of the European Parliament and of The Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of Unitary Patent protection; OJ EPO 2013, 111) '− "TranslArr" for the Translation Arrangements (in full: Council Regulation (EU) No 1260/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements ('translation arrangements'; OJ EPO 2013, 132) − "UPCA" for the Unified Patent Court	1) In reply to the comment that the first line of the list of references is empty, the Office said that this was because the number of the Official Journal article in which the entry into force of the 2024 Guidelines will be published will only be known in January 2024. 2) As regards the suggestion, the Office took note of members' wish and will assess it during the next revision cycle. The current order was based on the number of occurrences and therefore seems justified. It stated that adding UP abbreviations was beyond the scope of these Guidelines. On a member's request, the Office confirmed that it will check and update the list of abbreviations where necessary. On a member's request, the Office confirmed that it will consider whether and how to best involve users in the revision process for the UP Guide.

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			Agreement (in full: Council Regulation (EU) No 1257/2012 of the European Parliament and of The Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection; OJ EPO 2013, 111	
5	GP 5		Add Art. 9 UPPreg and Rule 6 UPR in the margin to (ix)	See minutes, point 1.1.
6	GP 6	Excellent		The Office expressed thanks for the positive comment.
#	**Part A**	**Comment**	**Suggestion**	**Consultation results**
7	A-II, 1	**A-II, 1** – Swapping electronic filing and filing by postal service is in line with what applicants do. Strangely, renumbered section 1.2 is still addressed as "Filing of applications by delivery by hand or by postal services".	This could better also be swapped: "Filing of applications by postal services" And add "delivery by hand" to A-II 1.3: Filing of applications by other means.	The Office clarified that the sections had been swapped in view of the Office's aim to mention "digital first" (see comment #1). It also clarified that the suggestion cannot be adopted for the following reason: Section 1.2 reflects the permitted means of filing under Rule 2(1) EPC. Section 1.3 reflects filing means which are not defined in Rule 2(1) EPC. "Delivery by hand" implies that documents are handed over to the porter, which would normally mean on paper. Therefore this means of filing belongs in section 1.2. There were no further comments from SACEPO WP/G members.
8	A-II, 1.3	This wording has lost its meaning, because the EPO has no intention to allow filing application by e-mail.	**A-II, 1.3** – please delete "at present".	The Office stated that this was a new comment. It will be considered for the next revision cycle. Following a question

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				from a member, it was explained that the proposal required a more extensive reply. There were no further comments from SACEPO WP/G members.
9	A-II, 5.1	**A-II, 5.1** – last sentence "… may not invoke the omission of the communication under Rules 56(1) and Rule 56a(1)."	Delete 's' in 'Rules'.	The Office thanked members for pointing out the editorial error.
10	A-II, 5.1		**A-II, 5.1** – Add clarification that "Missing parts of the claims cannot be filed under Rule 56 EPC" since Rule 56 does not refer to missing parts of the claims.	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
11	A-III, 5.3	The added sentence is rather abstract: "The EPO does not verify the accuracy of the information given in the designation of the inventor but it checks whether the inventor is designated within the meaning of the EPC (J 8/20)": it leaves open whether it is sufficient whether the wording of the designation of the inventor is formally so that it seems to refer to a natural person or whether"It is also verified that the designated entry is really a natural person, while J 8/20 has a very explicit and clear requirement that is needs to be a natural person reason 4.3.1: Under the EPC the designated inventor has to be a person with legal capacity. reason 4.7.3: The basis for the decision is that under the EPC the inventor must be a natural person.	Does the EPO check whether the designated inventor is really a natural person, or is a wording that appears to refer to a natural person (e.g., Charles of Windsor) sufficient to satisfy the J 8/20 requirement? If this is not checked, it is suggested to amend the underlined sentence to: "but it checks whether the inventor ~~is~~ **appears to be** designated within the meaning of the EPC (J 8/20"" Can the EPO discern that a "machine" is mentioned as inventor? E.g. if the inventor mentioned is "Tesla" would then the EPO protest …? Why the requirement that the inventor must have legal capacity. Ca"t you be inventive and legally incapable (eg a minor)? What are the requirements of legal capacity?	The Office agreed to update this section by stating that the designated inventor must be a natural person, in line with J 8/20. The Office confirmed that the formal check includes whether the designation contains a natural person's details in accordance with Rule 19(1) EPC, i.e. a family name and given names. There were no further comments from SACEPO WP/G members.

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12	A- III, 6.2	**A-III 6.2** – Why delete the references to G 2/02 and G 3/02 and at the same time maintaining **A-III 11.3** for applications filed before 1 April 2009? This makes little sense. Also it is not understood why EPC1973, and the related G decisions are no longer applicable: EPC1973 applied until (but excluding) 13 December 2007, such that they still apply to, e.g., applications filed on 12 December 2007 and patents granted therefrom, so until 12 December 2027. And even thereafter, invalidity proceedings may still run or be started. It appears to be arbitrary what are deleted	Either maintain the deleted paragraph or delete all text, but for the applicable cases refer to an older version of the Guidelines (all versions of the Guidelines can be downloaded on the EPO website). See https://new.epo.org/en/legal/guidelines-epc/archive	The Office stated that it cannot agree to the proposal. The deleted paragraph referred to the situation under the EPC 1973 whereby it was not possible to claim priority from an application filed at the industrial property authority of a WTO member not party to the Paris Convention. The paragraph also indicated that that practice was no longer applicable; it was therefore considered appropriate to delete it. Although the Office agrees that there may still be pending applications to which the EPC1973 applied on the date of filing, such applications would not be the object of the section in question. Part A-III, 6.2 describes today's practice in respect of newly filed applications. The section did not and could not cover proceedings in opposition or appeal for applications/patents to which the EPC 1973 applied on the date of filing and where an oversight by the Receiving Section may have led to the recording of an invalid priority claim. In contrast to the above, the practice described in A-III, 11.3 may still apply to a few cases (see also Art. 2(2) RFees). There were no further comments from SACEPO WP/G members.
13	A-III, 6.7	We have information from users that certain countries may issue certified copies of the priority documents with signatures accepted by the EPO but which miss other requirements of the EPO's online filing. An		The Office confirmed that the information in this section is correct. The Office was aware of problems concerning electronic priority documents issued by the

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		example is Portugal, which for at least one year did not issue documents according to the PDF/A format, the issued copies being rejected by the online filing platforms of the EPO. Thus, it seems that at least for certain countries the list included in this section is not accurate.		Portuguese IP office, which have since been resolved. On members' request it was confirmed that the filing tools would normally prevent the upload of a priority document that is not Annex F-compliant. However, any such issues had since been resolved in collaboration with the issuing offices. The Office furthermore confirmed that formalities officers check the electronic signature. Should any problems arise, these are solved on a case-by-case basis, generally in the applicant's favour. One member stressed that it was very important for them that the Office accepts the electronic priority documents issued by the offices mentioned in this section since, if a priority document was not accepted as correct, the priority claim might be at stake.
14	A-III, 6.8.2		**A-III 6.8.2** – delete space "issues raised in the communication are minor"	The Office thanked members for pointing out the editorial error.
15	A-III, 13.2	**A-III 13.2** – We don't see that the new text is now simpler or clearer The reworded paragraph has several unclarities and gaps: Strictly speaking, both section i) on international publication in an EPO language as well as section ii) on international publication in an EPO language lack an indication as to how pages with claims are counted if they are not amended. Also, pages with drawings are not mentioned in i) nor ii) (they do appear from the -unchanged- examples).	The reworded section needs to be corrected and supplemented. If that is not yet possible, returning to the previous wording for the 2024 version is suggested, so that a careful and correct redrafting for the 2025 version can be taken on (while, possibly, also providing basis for that in a new notice in the OJ EPO, to replace OJ 2009, 338).	The Office agreed to further clarify this section. As regards the claims, the Office stated that it considers the explanation concerning Art. 19 claims and amendments under Art. 34 PCT to be sufficient. In OJ EPO 2017, A74 it was clarified that Art. 19 claims replace those originally filed (see also EPO Form 1200, field 6.1)

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		Further, when Art. 19 amendments have been published, the reworded section is unclear when Art. 19 or art. 34 amendments were filed, and the applicant does or does not want to continue with those (or with the original claims). Also, the wording "If the claims have been amended, applicants must submit the entire set even if the amendment concerns only some of them. The additional fee is the based on the entire amended set of claims" seems inappropriate in this section on page fees − it rather belong in E-IX, 2.9.2 (amendments on entry) and/or E-IX, 2.9.3 (Rule 161). Also, it is noted that the reworded section results in a different page fee when the international publication was not in an EPO language and only the claims are amended. Either the old or the new text must thus not be in line with OJ 2009, 338.		unless the applicant states that the Art. 19 claims (or those originally filed) are replaced by an amended version. That the entire set of claims must be filed was taken literally from OJ EPO 2009, 338, which deals with the calculation of the page fee. The sentence is therefore appropriate in A-III, 13.2. Generally, the online filing tools clearly guide the applicant as regards the indications to be made and fees to be paid. There were no further comments from SACEPO WP/G members.
16	A-IV, 1.3.2	in the matter indicated in A-III, 16	"manner" seems to be intended.	The Office thanked members for pointing out the error.
17	A-IV, 3.1 Section 4.1?	Gui A-IV, 3.1 and G-V, 4 mention that the exhibitions recognized are published in the Official Journal. The "Synopsis of the territorial field of application of international patent treaties − (situation on 1 March)" used to be included in issue 4, but the latest publication was OJ 4/2022, A50.	Add a reference to The **Bureau International des Expositions (BIE):** https://www.bie-paris.org/site/en	The Office stated that this was a recurrent comment and referred to the SACEPO WP/G meeting on 19 May 2022, where the following was agreed: "*The overview of international exhibitions published in the 'synopsis' has the advantage that it lists only those exhibitions that are relevant for the users in the context of Article 55 EPC, thus, they provide the better service than the website of the Bureau International des Expositions*."

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				The Office pointed out that this year's "synopsis" was published in the August OJ (OJ EPO 2023, A79). There were no further comments from SACEPO WP/G members.
18	A-IV, V F-II, 6	Epi welcome the partial review by the EOP However, we consider the administrative burden imposed on the applicants by the new WIPO Standard ST.26 are very high (see e.g. examples under Part F-II item 6.2.2 and 6.2.3) and the consequences of not complying with these rules are very severe. We refer to our previous submission discussed at the 25th SACEPO WPG. We still request more detailed information as regards possible issues arising from an implementation of the new standard, especially possible added subject-matter issue resulting from the conversion form the WIPO ST.25 Standard to the new WIPO Standard ST.26 for sequence listings. We further we request that it is mentioned in the GL that: − where a priority application is filed with a sequence listing using ST.25 format and a follow-up application has to be filed with a sequence listing in ST.26 format, this may lead to a lack of priority for information that is lost due to the conversion; and − even verse, where in case of divisional applications that need to be filed with an ST.26 sequence listing, while the parent application was filed with an ST.25 sequence listing and thus may lead to added matter objections under Art. 123(2)/76 EPC.	A special meeting to discuss these and other biotech aspects of the GLs is still requested by epi. We still maintain our previously raised requests: *1. We strongly continue to request that the EPO would adopt the same practice for EP applications for divisional applications as the UK Patent Office applies and alternatively as the CA Patent Office and the KR patent office apply.* *2. In the event that proposal 1 is not adopted, we **request to waive the** requirement **for additional page fees** that are specifically incurred for the pages of an ST.25 sequence listing that are reproduced as pages of the description of a divisional application to maintain the subject matter of its parent application.* *3. We are concerned that the current required conversion for divisionals of an ST.25 sequence listing to an ST.26 sequence listing will lead to **lost material and/or added material** in Sequence Listings and it **may only submerge after grants during oppositions** (added-matter issues). The legal risks for the future are very high. The EPO has different standards for unallowable amendments*	See minutes, point 2. There were no further comments from SACEPO WP/G members.

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		We think that applicants should be informed about these risks.	*than other jurisdictions which contributes to our request on this point. We act here as **users of the EPO filing system** and of its mandatory platform, and thus we see the responsibility to resolve our issues with the EPO. Some issues are related to EPO practice such as the divisional application page fees and added matter issues.* *4. We request **Rule 30(3) EPC** to be discussed and amended. We would like to **waive the late furnishing fee under Rule 30(3) EPC** for providing ST.26 sequence listings for search purposes only on cases where a pre-existing ST.25 listing is submitted to the EPO. This would offset the cost of completing the onerous conversion requirements from ST.25 to ST.26. In view of the raised complexity of the SL standard, the time limit of Rule 30(3) EPC may be extended to three months, or be made extendible upon request.* *5. We are of the opinion that the current ST.26 sequence listing **software is still in a test phase** and applicants cannot be punished for not being able to use a software that has not been thoroughly tested. Already for this reason only ST.25 sequence listings should be allowed also for divisional applications where the parent application contained such a format of sequence listing (or later corrections should be possible).* *6. We consider it necessary to **amend the Guidelines for Examination** and **the FAQs and devote enough attention to this matter** and for instance go into details about page fees and certified copies which*	

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			are not obtainable at this moment, when and how an automatic conversion of a ST25 SL into description pages is done, when and how the page fees are communicated. *7. We would also like to* ***waive the requirement for applicants/representatives to file a declaration*** *that the sequence listing does not add subject matter. This is because this requirement will be impossible to satisfy in some cases. The requirements of ST.26, with the additional information over and above ST.25, may make it impossible for an attorney to declare that the new sequence listing does not add new matter. This would place applicants and representatives in an impossible position in which they would be pressured to declare something that they know is not true. As regards the declaration to be made for subsequently filed SLs: The fact that this declaration only needs to be made for SL filed subsequently, does not avoid the issue that practitioners, who may be faced with enormous import reports when importing ST25 files and having been forced to specify a potentially large number of mol_types, cannot make such an official statement without risking to breach their code of conduct. In many cases (like the cDNA case) it is rather certain that matter has been added (either by generalization or specification or both). Secondly, the fact that one declares that something that does not represent subject matter of the application (the subsequently filed SL is not part of the application*	

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			documents) does not go beyond the content of the application as filed seems counterintuitive. It is understandable that the EPO does not want to be presented with new/changed sequence information for search.à Maybe we can together find a different wording for such a declaration, that both practitioners and the EPO can connect to and that clarifies the purpose of the declaration. *8. In a few cases, applicants have been unable to generate ST26 compliant files due to software failures or limitations or due to the practical issue of being faced with needing to define thousands of mol_types or needing to define ten-thousands of 'u' in DNA/RNA hybrid sequences. The possibilities to do bulk editing either do not exist ('u' conversion) or are inherently error prone (table/page layout of the software). à Until now there is no official channel which applicants can address in such cases. à The time limit of Rule 30 EPC has not been adopted to accommodate the raised complexity of SL handling.* *9. In a conversion from a ST25 to a ST26 SL, the note tags become imported by the software as notes, even if these notes sometimes refer to features for which precise definitions exist and are recommended in ST26. à It is asked for an official clarification, that such features (e.g. N-acetylation) when placed in a SITE/note definition in ST26 will be acceptable.* *10. The above issues are very likely not complete. It is therefore appreciated if a constructive dialog is continued until the*	

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			"toothing problems" of the new ST26 are resolved. *11. Also further practical guidance for applicants and representatives by* ***webinars or*** *seminars organised by the EPO (all or not in collaboration with epi and/or WIPO) are needed.* *12. In the event that some of the above requests are not adopted, Epi would like that (in the case of divisional applications or priority claiming applications where a conversion of an ST.25 Sequence Listing to an ST.26 Sequence Listing was needed), at least the* ***EPO should make an official notification or statement that ST.26 Sequence Listings can be corrected at any time before and after grant*** *if an applicant or patentee realizes or is informed that a correction is needed. We think it is* ***only fair and reasonable to ask this****.*	
19	A-V, 3	A-V, 3 has been extended with: "After expiry of the two-month time limit for correcting erroneous (parts) of the application documents under Rule 56a(1) or 56a(3) (see A-II, 6), the correction of errors in application documents is governed by Rule 139,second sentence. The allowability of such corrections under Rule 139 is subject to strict requirements." However, it is not indicated whether, when Rule 56a(4) EPC is used, the use of the erroneous/correct parts provisions, or when PCT Rule 20,5bis(d) is used the "ERRONEOUSLY FILED" indication on the erroneously filed pages, can be used to take them out by correction under Rule 139 rather than by (a possibly not allowable) amendments under Art. 123(2).	An indication is requested.	The Office stated that this was a recurring comment which had been replied to at the SACEPO WP/G meeting on 4 May 2023. See the corresponding consultation results. There were no further comments from SACEPO WP/G members.

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20	A-VI, 1.3	The clarification, in response to our earlier comment/request, is appreciated. However, it is not indicated in the added sentence whether the publication also indicates (as it does under PCT) which parts are filed as correct parts/document and which parts are indicated to be erroneously filed parts/document. Does the EPO – in the situation of Rule 56a (4) EPC – indicate in the publication what are the erroneously filed application document and what are the correct application documents? This should be clarified. In PCT Rule 48.2(b)(v), the publication must show this.	It is requested to indicate whether the publication also includes an indication (as it does under PCT) which parts are filed as correct parts/document and which parts view indicated to be erroneously filed parts/document, and how that indication is done.	The Office agreed to the proposal.
21	A-VI, 2.4	Item (iv) was amended by deleting the terms "copies" to "~~copies of~~ documents cited in the search report and ~~two copies of the~~ publication document(s)". It is doubted whether this is correct: if the search report cites a chapter of a text book, the amendment suggest that the original text book (or at least original pages of the chapter of that text book) are transmitted. But what will be transmitted is just a copy of that chapter.	It is suggested to keep (iv) largely unamended by maintaining the term "copies" but deleting the term "two", so as: "copies of documents cited in the search report and ~~two~~ copies of the publication document(s)"	The Office stated that it could not agree to the suggestion. This section concerns the transmission of the file to the examining division. Examiners do not work with paper files. Citations are digital and available to examiners in a database or from the internet. It is not necessary to state that these may only be scans (or copies) of any original documents. The Office also referred to sections B-II, 3 and B-IX, 1.1. There were no further comments from SACEPO WP/G members.
22	A-VI	This issue is not dealt with in the current version: We were informed that in the publication of a specification for a EURO-PCT application (PCT published in English), the order of the inventors was not the same as in the Request Form R101.	How can an applicant request to change the order of the inventors after receiving the Communication pursuant to R 71(3), without delaying the grant? It should be noted, that for some inventors the order of inventors is highly sensitive.	The Office confirmed that it was aware of an IT issue which is currently being dealt with; however it did not consider it necessary to update this section. The Office confirmed that a request to change the order of inventors could be filed at any time, including in reply to the Rule 71(3) communication. This would not delay the grant of the European

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				patent. Following a question from a member, the EPO clarified that any change to bibliographic data would be communicated to the applicant in a separate communication. There were no further comments from SACEPO WP/G members.
23	A-VII, 1.1	The clarification is appreciated. However, the type of deficiency and required remedy, or possibly multiple options to remedy, may depend on the languages. In particular, it may be doubted whether Art. 14(2) allows to file in multiple official EPO languages. – We assume the EPO is aware that the PCT is preparing a Rule amendment for situations where an international application is filed in more than one language, where all languages used are official languages of the receiving Office? (See WIPO Assembly document PCT/A/55/2 in relation to PCT Rule 26.3*ter*(e)).	It is requested to expand the clarification to explicitly address: i) description filed partly in one official EPO language and partly in another language, not being another official EPO language − assume translation needs to be in the I already used official EPO language; ii) description filed partly in one official EPO language and partly in another official language − I − assume applicant can choose between the two official EPO languages used; iii) claims in a different language than (one of) the official EPO languages of the description − I assume language is determined by the language of translation used for the description as that sets the language of proceedings; iv) text matter in drawings is in a different language than (one of) the official EPO languages of the description − I assume language is determined by the language of translation used for the description as that sets the language of proceedings; v) abstract in a different language than (one of) the official EPO languages of the description − I assume language is determined by the language of translation	The Office did not agree to update the Guidelines. It stated that the Guidelines cannot cover each and every scenario, in particular if they rarely occur in practice. A corresponding statement is also contained in the General Part, section 3: "*The Guidelines cannot cover all possible occurrences and exceptions in every detail, but must be regarded as general instructions that may need to be adapted to the individual case.*" There were no further comments from SACEPO WP/G members.

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			used for the description as that sets the language of proceedings;	
24	A-VIII, 1.4	The added text is not fully clear. It seems that the underlined part is to be understood - it is suggested to amend it accordingly: "If, with the request for registration of the transfer to joint applicants, a change of representative is requested for joint applicants, any authorisation must be signed by all applicants. If this is not the case, the parties will likewise be invited to appoint a common representative before registration of the transfer can take place."	It is proposed to amend the added text as: "If, with the request for registration of the transfer to joint applicants, a change of representative is requested for joint applicants, any authorisation must be signed by all applicants. If this is not the case, the parties will likewise be invited to appoint a common representative before registration of the transfer can take place."	The Office stated that it did not agree with the proposal but agreed to update the wording to improve its clarity. There were no further comments from SACEPO WP/G members.
25	A-VIII, 1.6	No amendment made matching the EPO comment? A VIII 1.6 MyEPO Portfolio service added as a means of filing changes in representation; reference to OJ EPO		The Office stated that the updates announced in the explanatory comment heading this section had been deleted. The Office apologised for not having also removed the explanatory comment in the draft Guidelines.
26	A-VIII, 3.1	Is form 1038 being abolished? There are rumours. **1038** Letter accompanying subsequently filed items	We wish to retain the 1038 form.	The Office stated that this comment did not relate to the Guidelines but confirmed that EPO Form 1038 will be kept.
27	A-IX, 7.1	The drawings must be executed in black. Colour drawings can be submitted but will be scanned, printed and made available via file inspection in black and white only (see also A-IX, 1.2 in respect of colour photographs). In respect of the content of priority documents issued by the EPO in such a case, see A-XI, 5.2. What is the status for actually having colour on the published applications/patents? When will coloured drawings be included in the priority doc. (A-XI, 5.2)		The Office confirmed that this topic is not for the Guidelines but will be on the agenda of the forthcoming SACEPO WP/R meeting. It also confirmed that the EPO had a clear aim to provide the requested service as soon as possible.

#	Part	Comment	Suggestion	Consultation results
28	A-X	References are only to epo.org, but not (also) to new.epo.org. Is that intended?	A clarification is requested.	The Office confirmed that there was no longer a difference between "new.epo.org" and "epo.org" since the transition to the new EPO website has been completed. Thus, the reference to epo.org is correct. There were no further comments from SACEPO WP/G members.
29	A-X, 4.2.1		In 4.2.1., it is said "A consolidated version of the ADA was last published as Supplementary publication 3, OJ EPO 2022." However, ADA has since been changed, and at least to my knowledge, no consolidated version is available. It would be brilliant it one could be available, as for NatLaw, for example. If not, it could perhaps be added where later amendments have been published?	The Office expressed thanks for the suggestion and confirmed that a consolidated version of the ADA will be published in 2024.
30	A-X, 4.3		See comment above for 4.2.1., also here it is not mentioned where the updated annexes can be found, or where the amendments have been published.	See comment #29.
31	A-X, 5	Due dates for fees	Add (as a third example) an example with the date of mention of the grant between the beginning of the patent year and the due date, all dates within the same month; for example anniversary of filing 5 May, due date 31 May and mention of the grant in between.	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle. To this end the Office asked members to specify the issue more clearly.
32	A-X, 9.1	The Guidelines A-X, 9.1 contain this sentence: *The factual conditions for a reduction of the fee must be met on or before the day the period for payment expires.*		The Office agreed to reword the paragraph in question.

#	Part	Comment	Suggestion	Consultation results
		This would however appear incorrect. It would for example mean that I could pay the reduced examination fee three months before the period for payment expires, and only meet the factual conditions one month before the period for payment expires. This would actually appear to be contradicted by the **Notice from the EPO dated 10 January 2014** concerning amended Rule 6 EPC and Article 14(1) RFees (OJ EPO 2014, A23), according to which the declaration must in any event be filed at the latest by the time of payment of the (reduced) examination fee (section 5, last sentence). This Notice is not (but should somehow be) referred to in the Guidelines. Actually, a complete review of Guidelines A-X, from 9.1 to 9.2.3, would appear necessary, because many possibilities are not covered.		As regards a general rewording, the Office stated that the Guidelines cannot cover all possible circumstances; references to the corresponding publications in the OJ are considered sufficient. There were no further comments from SACEPO WP/G members.
33	A-X, 9.2.1	Paragraph I: This is in our opinion clearly erroneous. As it stands, this Guideline make no sense (and would appear to invite applicants not to notify changes in their status). OJ EPO 2018, A5 (**Notice from the EPO dated 18 December 2017 concerning the reduced fee for appeal (Article 108 EPC**) for an appeal filed by a natural person or an entity referred to in Rule 6(4) EPC) This one contains correct wording: 9. For eligibility for the reduced appeal fee, an appellant's status under Rule 6(4) EPC when filing the notice of appeal is relevant. Changes subsequent to the procedural act of filing the notice of appeal have no retroactive effect on the validity of the appeal fee	It should read: Changes in the status of an entity under Rule 6(4) which occur after the procedural act has been completed will not have a retroactive effect on the reduction that was justified when granted.	The Office stated that this seemed to be a new comment. The Office also explained that the wording relies on that of OJ EPO 2014, A23. A fee reduction could only be granted on payment; the declaration under Rule 6(6) could be made earlier or at the same time as the payment. A reduction would not automatically be granted for a future payment, i.e. the declaration became invalid if the applicant's status changed. The EPO carries out random checks; if it finds that the applicant is no longer entitled to the reduction when the reduced fee is paid, the fee is not validly

#	Part	Comment	Suggestion	Consultation results
		payment made. The procedural act of filing the request for examination is completed when both the request has been filed and the fee paid (with reduction, when applicable).		paid and the application may be deemed to be withdrawn. There were no further comments from SACEPO WP/G members.
34	A-X, 9.2.1, 9.2.3		It is proposed to add, after "In this regard, it is necessary to file the documents making up the application "as filed" and/or the request for examination in an admissible non-EPO language, and to file the translation not earlier than simultaneously (see G 6/91)." In this context, it is to be noted that the request for examination will only be considered filed once the examination fee is paid; hence, a submission of a request for examination in any official EPO language, e.g. by submission of EPO form 1001 or 1200, before the filing of the request for examination in an admissible non-EPO language, still provides for eligibility for the fee reduction for the examination fee if the (reduced) examination fee is paid no earlier than simultaneously with the filing of the request for examination in the admissible non-EPO language (e.g., on the dame day).	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
35	A-X, 9.2.2	If the description is in part in English and in part in an admissible non-EPO language (as is allowed by amended A-VII, 1.1), e.g. Dutch for a Dutch applicant, can the applicant get the 30% fee reduction on the filing fee? (Does it depend on the relative amount of Dutch text)?	A clarification is requested.	The Office stated that this was a new comment which will not be taken up for the 2025 revision cycle since such a situation has not yet occurred in practice. The Office therefore does not see any need to include such information in the Guidelines, which are not intended to cover hypothetical or rare circumstances.

#	Part	Comment	Suggestion	Consultation results
				There were no further comments from SACEPO WP/G members.
36	A-X, 9.2.3	See comments 44. GL/EPO A-X, 9.2.3 which now says "Where the request for examination in an admissible non-EPO language is filed subsequent to EPO Form 1001 or EPO Form 1200, a translation of the request for examination ***in the procedural languages*** must be re-filed (see G 6/91)." This is however incorrect, as the translation of the request for examination may be filed in any of the official EPO languages, regardless of the language of the proceedings. See Rule 3(1) and A-VII, 3.2. The cited sentence is also incorrect, or at least may be misunderstood, in the use of the term "re-filed": there is no need to again file a translation of the request for examination as it was already submitted and will only be considered filed once the examination fee is paid whereby is becomes considered filed "no earlier than simultaneously" if the fee is paid "no earlier than simultaneously" as the request for examination in an admissible non EPO language – G 6/91. Nothing in G 6/91 requires the re-filing of the translation of the request. On the contrary, if the request would already have been legally filed (=sentence filed and fee paid) before filing the request for examination in an admissible non EPO language, the latter is ignored and no fee reduction is available, because the translation would have not haver been filed "no earlier than simultaneously". So, not only is the reference to G 6/91 incorrect for the alleged need for a re-filing, it is also incorrect that there is the need for any re-filing in case form 1001 or 1200 were already submitted.	It is therefore proposed to **delete** the cited sentence from GL/EPO A-X, 9.2.3, and to replace it by a reference to A-X, 9.2.1, amended as proposed (see above): "Where the request for examination in an admissible non-EPO language is filed subsequent to EPO Form 1001 or EPO Form 1200, see A-X, 9.2.1." Alternatively, amend complete A-X, 9.2.3 (also introducing some Newlines) to: Applicants eligible for the fee reduction will be allowed a reduction in the examination fee if the request for examination is filed in an admissible non-EPO language <u>and a translation into any of the official EPO languages, regardless of the language of the proceedings, is filed not earlier than simultaneously (see G 6/91). Further, a declaration under Rule 6(6) must be filed.</u> EPO Forms 1001 (Request for grant of a European patent) and 1200 (Entry into the European phase) contain drop-down menus/pre-printed boxes where the request for examination in an admissible non-EPO language and the declaration under Rule 6(6) can be selected/entered. In these cases, the filing of a translation of the request is not necessary, since the written request for examination in the three EPO official languages is pre-crossed in the same forms. Wordings for the request-for-examination in the admissible non-EPO languages are listed on the EPO website.	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.

#	Part	Comment	Suggestion	Consultation results
		If the EPO maintain that a re-filing of the translation of the request for examination is required, please explain the reasons for this.	Where the request for examination in an admissible non-EPO language is filed subsequent to EPO Form 1001 or EPO Form 1200~~, a translation of the request for examination in the procedural languages must be re-filed (see G 6/91). ,~~ it is to be noted that the request for examination will only be considered filed once the examination fee is paid. Hence, a submission of a request for examination in any official EPO language, e.g. by submission of EPO form 1001 or 1200, before the filing of the request for examination in an admissible non-EPO language, still provides for eligibility for the fee reduction for the examination fee if the (reduced) examination fee is paid no earlier than simultaneously with the filing of the request for examination in the admissible non-EPO language (e.g., on the dame day) (G 6/91). Subsequent documents related to examination proceedings need not be filed in the admissible non-EPO language. If the conditions for the reduction of the examination fee where the EPO has drawn up the international preliminary examination report are also fulfilled, see A-X, 9.3.2.	
37	A-X, 10.1.3	We noted that the footnote to Rfees 12 (https://new.epo.org/en/legal/epc/2020/f12.html#12) still refers to OJ 2020, A10 of 2020 (status: 14 July 2023), while that has already been superseded by OJ 2023, A27 per 1 April 2023, so more than 3 months ago. Hence, the EPO website indicates outdated amounts, whereby 1) the purpose of the footnotes is fully absent; 2) there is a problem in view	It is requested to make the Guidelines and the online legal texts, including their footnotes and hyperlinks, consistent and correct, at least by the cut-off date of the Guidelines. It is further requested to have the online legal texts on epo.org and new.epo.org, including their footnotes and hyperlinks,	The Office expressed thanks for the comment and confirmed that the erroneous reference will be corrected in due course. The Office confirmed that it generally strives to keep the information in the Guidelines correct and up to date at all times.

#	Part	Comment	Suggestion	Consultation results
		of the good faith problem; 3) there is doubt as to the correctness of all other footnotes and even all other legal texts in the EPO website. It is noted that the webpages also do not show a "latest revision date".	up-to-date at all times, without any delay, so accurately reflect the true legal status; in particular the text of EPC, Rules, Rules Fees and the footnotes.	
38	A-X, 10.2.6	The clarification, in response to our earlier comment/request, is appreciated.		The Office expressed thanks for the positive comment.
39	A-X, 10.2.6		Add a remark about G 3/03, r.3,4,3:" i.e. granting interlocutory revision under Article 109(1) EPC and remitting the request of the appellant for reimbursement of the appeal fee to a board of appeal,"	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
40	A-X, 10.3.1		Correct "c laim" to "claim"	The Office thanked members for pointing out the editorial error.
#	**Part B**	**Comment**	**Suggestion**	**Consultation results**
41	B-III, 3.1	**B-III, 3.3.1** – The abbreviation "ESR" is used. This is not a definition in the General Part of the Guidelines.	Better to write "EESR".	The Office agreed to the proposal.
42	B-III, 3.3.1	The clarification, in response to our earlier comment/request, is appreciated.		The Office expressed thanks for the positive comment.
43	B-VI, 4.1	Strengthen importance of national prior rights.	Change " Although such applications do not prevent granting a European patent, but are only a potential ground for revocation in the state or states concerned, they may be important for the applicant" to "**Such applications do not prevent granting a European patent, but are a potential ground for revocation in the state or states concerned, and so they are important for the applicant**...."	The Office agreed to the proposal.

#	Part	Comment	Suggestion	Consultation results
44	B-VI, 4.1.2	The amended wording does not clearly indicate what the relevance of 13 Dec 2007: filing or entry date of the PCT that is a conflicting prior art, or filing or entry date of the EP or Ero-PCT that is under examination.	It is suggested to clarify that a) applies to potentially conflicting PCT applications when examining an EP application filed before 13/12/2007 or a Euro-PCT that satisfied the Art.158(1) EPC1973 or full entry criteria before 13/12/2007, and that b) applies to potentially conflicting PCT applications when examining an EP application filed on or after 13/12/2007 or a Euro-PCT that satisfied the Rule 165 EPC2000 or full entry criteria on or after 13/12/2007.	The Office agreed to the proposal; the section will be reworded.
45	B-X, 9.1.2, 9.1.3	It is appreciated that a full (machine) translation is now made available to the applicant, also if the search examiner is competent in the non-official language and did not use the translation but the original in the " non-official language. It does however raise the question as to: 1) whether the examiner will check the correctness of the machine translation, and what they will do if it is not correct at relevant parts? 2) if the examiner does not check the correctness of the machine translation, and the applicant/representative notices that the search opinion/objections are not consistent with the content of the machine translation: what is the appropriate procedure for the applicant/representative and examiner? It could result in a situation that the search opinion is negative based on the assumed correct understanding of the examiner of a lack of novelty over "strange- language document, while the claims are clearly novel over the machine translation – it would not be fair and proportional to then require the applicant"to go into examination (and pay) to challenge the"objections!		The Office did not agree. The changes made to B-X, 9.1.2 and 9.1.3 have not changed the procedure as such. As with any objection raised in an EESR, the applicant can comment on it in the response to the EESR. As regards any machine translations of the documents cited, the Office confirmed that examiners do not check them since it cannot be expected that they are fluent in any languages other than the official ones and, if applicable, their native language. Should applicants notice a mismatch, this should be stated in their reply to the EESR. One member asked for the procedure to be clarified since they had experienced obvious mismatches of the machine translation and the original. The Office agreed to bring this issue to the attention of examiners.

#	Part	Comment	Suggestion	Consultation results
#	**Part C**	**Comment**	**Suggestion**	**Consultation results**
46	C-I, 2	what is the difference between an Examiner and a member?		The Office explained that there is no difference. This change is due to the decision to use gender-neutral language to describe the roles of division members in the forms automatically generated by the EPO system. For the sake of consistency, the same terminology has been incorporated in the Guidelines. There were no further comments from SACEPO WP/G members.
47	C-III, 1.1.1	The clarification is appreciated and understood to mean that, when drawings are missing, just the reference numbers thereto are to be deleted but the description of the embodiment to which the drawing(s) relate can remain in full.		The Office thanked members for the comment and confirmed that the interpretation was correct and in accordance with A-II, 5.5. There were no further comments from SACEPO WP/G members.
48	C-III, 1.3	**C-III, 1.3** – The effect of erroneous/corrections on Rule 159 EPC, Rule 161(1)/162 EPC and Rule 161(2)/162 EPC is not addressed in Rule 56a EPC, nor in the Notice (OJ EPO 2022, A71, items 21-23) clarifying its introduction. Also, the Guidelines do not provide clear guidance. C-III, 1.3 rather indicates only that: *"On entry into the European phase, **the normal procedures apply** on the basis that the correct and erroneously filed parts are thus part of the application as filed (see E-IX, 2)".* It would be better to explain that the applicant is expected to amend the Euro-PCT application by removing the erroneously filed part and to limit to the correct parts upon entry under Rule 159(1)(b) EPC following a PCT Rule 20.5*bis*(d) situation. If not done upon entry, it seems likely that the applicant will be	Clarification is requested! What will the ED do in this situation where the entry documents contain non-searched matter at the end of the Rule 161/162 period? Specify what is meant by "the normal procedure".	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.

#	Part	Comment	Suggestion	Consultation results
		invited thereto in the communication under Rule 161(1)/(2) EPC. Further, if the entry documents contain non-searched matter at the end of the Rule 161/162 period, will the EPO issue a communication under Rule 164(1) or Rule 164(2) EPC, and during the related searches possibly a communication under Rule 62a EPC (multiple independent claims) or Rule 63 EPC (no meaningful search)?		
49	C-III, 3.4	"if these requirements are fulfilled"	New text makes it **less clear** that the requirement is that the applicant requests an interlocutory decision, not merely that the applicant is informed that they can request an interlocutory decision. Clarification is requested!	The Office agreed to amend the text to clarify the requirements to be met before an interlocutory decision is issued. For example, the applicant must request the issuance of an interlocutory decision. SACEPO WP/G members indicated that, similarly to C-III, 3.4, the passages in chapter A, in particular A-X, 10.1 and 10.2, should also be looked at to clarify the refund of fees. The Office responded that this suggestion would be considered during the next revision cycle. (See also comment #39.)
50	C-III, 5.1	The example provided for the type of new arguments which may be expected to be raised is not particularly revealing, since it is very likely that the applicant files counterarguments to the original argument of the WO. It is thus not clear in which sense would new arguments from the ED be needed, and why would this be an elligible situation for summons OP to be the first action in examination.		The Office understood this comment to refer to C-III, 5. The Office proposed deleting the added text referring to the inclusion of new arguments. There were no further comments from SACEPO WP/G members.

#	Part	Comment	Suggestion	Consultation results
51	C-IV, 7.1	The clarification, in response to our earlier comment/request, is appreciated. The situation on a possible Euro-PCT lacks one explicit, and frequently occurring, situation: that where the 31m did not yet expire, so that the conflicting Euro-PCT may or may not enter/satisfy R.165. It is suggested by the wording "n these cases, the examining division cannot issue an intention to grant before it can be established if these documents are prior art under Art. 54(3)" that, in such case, the examiner will wait until the 31m period as well as the further processing period to remedy a missed entry/R.165, have expired. Is that correct? Is so, it is suggested to include this. If not, please clarify this situation.	It is requested to also describe the situation explicitly where a relevant intermediate and/or conflicting Euro-PCT applications did not yet, but may still, enter or at least satisfy Rule 165 (31 months plus further processing time limit did not yet expire)	The Office did not agree with the suggestion to explicitly refer to the further processing period. It is true that the examiner will wait until it is clear whether Euro-PCT documents are prior art under Art. 54(3) alone or in conjunction with Rule 165. The examiner will not propose the application for grant before that time. That includes cases of further processing to remedy missed entry. The Office proposed slightly amending the text to refer to Art. 54(3) and Rule 165. There were no further comments from SACEPO WP/G members.
a52	C-IV, 7.1	From the added comments, it is understood that, in case a potentially conflicting PCT application has not yet reached the 31 month time limit and has not entered the European phase or applied R. 165 EPC, then such document is not cited and the application proceeds to grant. Still explicit confirmation on this assessment would be useful.		The Office did not agree with this interpretation. In the case described, the examining division will not issue an intention to grant. Examiners will wait until it is clear whether the intermediate document is prior art under Art. 54(3) alone or under Rule 165. There were no further comments from SACEPO WP/G members.
53	C-V, 2.1		Add Art. 9 UPPreg, Art. 6 TranslArr and Rule 6 UPR in the margin	See also comment #2. The Office did not agree to add these marginal references.

#	Part	Comment	Suggestion	Consultation results
				These are Guidelines for Examination in the EPO. Regulation (EU) No 1257/2012 and the Rules relating to Unitary Patent Protection (UPR) are not directly applicable in proceedings before the EPO. There were no further comments from SACEPO WP/G members.
54	C-V, 4.7.1		Clarify that a refusal requires that all reasons therefor have previously be formally dealt with and communicated to the applicant. Suggested formulation: (a) the grounds leading to the finding that the request filed **(or all of the requests if one or more auxiliary requests are filed**) in response to the Rule 71(3) communication is inadmissible or not allowable have **previously be formally dealt with and communicated to the applicant.**	The Office did not agree with the second part of the proposed wording. It considered the phrase "have already been formally dealt with in examination proceedings" to be sufficiently clear. The Office agreed to include the situation where more than one request is filed. There were no further comments from SACEPO WP/G members.
55	C-V, 4,7.1	does the use of "will" here overrule the use of "may" in the preceding section?	Stick with "may"	The Office agreed with the comment: the situation in 4.7.1 is specific and necessarily leads to resumption of examination proceedings. For the sake of clarity, the Office proposed deleting "including when the applicant files non allowable or inadmissible amendments in response to the Rule 71(3) communication" in section C-V, 4.7.

#	Part	Comment	Suggestion	Consultation results
				There were no further comments from SACEPO WP/G members.
56	C-V, 4.7.1	Summoning OP directly, irrespective of the circumstances, may lead to a higher time consumption when compared to the issuing of an Art. 94 (3) communication, especially since the number of replies to R. 71 (3) communications has likely risen recently, following the amendments to the guidelines with respect to "bringing the description in agreement with the claims". Thus, the previous practice and wording would be more balanced.		The Office clarified that the amendment in this section is due to a change of practice at the EPO: the examining division will not have to issue a communication under Art. 94(3) first if the grounds or evidence have not yet been dealt with in examination proceedings, but oral proceedings may be scheduled immediately.
57	C-V, 14	Error in ›roceedings. The examining division may also not he only communiction issued is under Rule 137(4).	Correct spelling of communication in inserted part	The Office thanked members for pointing out the spelling mistake, which will be corrected.
58	C-VII. 2.1	still concerns over current form of MyEPO preventing adoption − in the meantime is this appropriate?		The Office considered that the reference to the shared area is appropriate. MyEPO entered into force on 1 July 2023 and therefore the text referring to MyEPO and the shared area should be kept. There were no further comments from SACEPO WP/G members.
59	C-VIII, 5.1	same comment as for C-III, 5.1		The Office did not agree to amend this section: C-VIII, 5.1 concerns when a summons to oral proceedings can be issued in substantive examination. It is not clear how the comment relating to a summons to oral proceedings as a first action would also apply to C-VIII, 5.1. Furthermore, this section has merely been moved from part E and has not been amended.

#	Part	Comment	Suggestion	Consultation results
				There were no further comments from SACEPO WP/G members.
#	**Part D**	**Comment**	**Suggestion**	**Consultation results**
60	D-II, 2.1	Negates the purpose of Article 19(2) to provide impartiality. Would a division in which one examiner had dealt with the priority case, one with the parent, and one with a (now opposed) divisional application show impartiality?	In the last sentence delete "However" and "not".	The Office did not agree with this suggestion. It explained that priority and divisional applications are separate and independent applications. Art. 19(2) EPC is not an exception to this rule. Therefore, participation in the proceedings for a patent family member, e.g. a parent or priority application of an opposed patent, is not considered participation in the proceedings for grant of the patent to which the opposition relates. There were no further comments from SACEPO WP/G members.
61	D-IV, 1.4.2	Reasonable		The Office expressed thanks for the positive comment.
62	D-IV, 5.3		Suggestion to clarify if the replacement paragraphs should be clean copy or marked up to show the changes. We also suggest considering what the remark about "a completely retyped description" means. Nobody will actually retype the patent text in the literal sense, as was more likely in the past when patent specifications were published by the EPO on paper.	The Office did not agree with this suggestion. It clarified that the way amendments should be filed in general is indicated in H-III, 2.2, which is referred to in this section: "Amendments should preferably be identified using functions available in a text editor to clearly indicate deletions and insertions in the amended text. Pages with such indications should be submitted in addition to clean copies."

#	Part	Comment	Suggestion	Consultation results
				The terminology "completely retyped" is consistent with H-III, 2.3 and thus does not reflect a change in the Guidelines. "Retyped" should not be interpreted in the literal sense, but as the refiling of a complete description. The opposition division, and other parties to the proceedings, have to check such pages as if they have been completely retyped. After all, inadvertent or erroneous deletions or insertions are possible even if a page is not entirely retyped, but alleged to have been copied. For this reason, referring to a "completely retyped description" seems more efficient than a longer explanation. There were no further comments from SACEPO WP/G members.
63	D-IV, 5.4	"copies of documents supporting the parties' submissions which are available for inspection in the Register"	The Register under Art. 127 contains no documents; documents are in the file under Art.128.	The Office expressed thanks for the comment. It confirmed that the documents are accessible via the Register (see OJ EPO 2019, A16, Art. 1(1)). The current wording "in the Register" could thus be changed to "via the Register". The same change should then also be made to D-IV, 5.2. There were no further comments from SACEPO WP/G members.
64	D-IV, 5.5	If on the other hand ... a final decision can be taken	The decision of the preceding sentence is also final, namely rejecting the sole opposition as inadmissible.	The Office expressed thanks for the comment and suggests new wording to avoid any misunderstanding: "… a final

#	Part	Comment	Suggestion	Consultation results
				decision with regard to all substantive issues can be taken, …". There were no further comments from SACEPO WP/G members.
65	D-V, 2.2	which are still covered by the independent claim as granted,	The phrase is unclear. We guess it means that amended claims must comply with Art. 123(3).	The Office stated that it did not see a need for further clarification in this respect. The Office clarified that the wording "still covered by the independent claim as granted" is consistent with the wording in Part H-II, 3.1 and indeed relates to compliance with Art. 123(3). There were no further comments from SACEPO WP/G members.
66	D-V, 3.2	This is consistent with D-V 2.2: **2.2 Examination of the grounds for opposition** Opposition proceedings are not a continuation of examination proceedings. Hence as a general rule the opposition division will confine its examination to those grounds for opposition brought forward by the opponent. If, for In the same way the OD shall give preliminary opinion on the claim request filed by the proprietor only.	In 2nd paragraph. After "Normally, the annexed communication will also contain the provisional and nonbinding opinion of the opposition division on the positions adopted by the parties and in particular on amendments filed by the patent proprietor." It is suggested to add: "The opposition division should refrain from suggesting claim amendments"	This comment presumably relates to D-**VI**, 3.2. The Office stated that this section had not been amended (except for the addition of a reference). The Office clarified that, for reasons of impartiality, the opposition division will not suggest claim amendments in the summons to oral proceedings. There were no further comments from SACEPO WP/G members.
67	D-V, 5	The comments indicated below at F-IV-2.2 apply in a similar manner.	Remove the first added paragraph	The Office did not agree with this comment. The comments for F-IV, 2.2 concern the two-part form under Rule 43(1). On the

#	Part	Comment	Suggestion	Consultation results
				other hand, the paragraph added to D-V, 5 concerns adaptation of the description in view of Art. 84 in cases where the claims are amended. It was unclear how the comments for F-IV, 2.2 can apply in a "similar manner". There were no further comments from SACEPO WP/G members.
68	D-V, 5	The sentence "inconsistencies between the description and the claims resulting from amendments during opposition proceedings must be avoided" does not clearly define the practice of the EPO in this matter.		The Office did not agree with this comment. The Office clarified that the sentence has to be read in the context of the preceding sentence, which states that the patent's description may be examined for compliance with the requirements of Art. 84 only when, and then only to the extent that, an amendment of the patent introduces non-compliance with Art. 84. This means that any possible non-compliance under Art. 84 already present in the granted patent cannot be objected to under Art. 84. The sentence commented on concerns the situation where a claim is amended during opposition proceedings and this results in an inconsistency between the claims and the description. Such inconsistencies are to be avoided. In practice, this means that the description will need to be adapted. A discussion arose on the extent to which the expected referral to the Enlarged

#	Part	Comment	Suggestion	Consultation results
				Board of Appeal regarding "adaptation of the description" would also apply to opposition proceedings. It was agreed that Part D reflects the current practice and that adding further clarification may be useful.
69	D-VI, 7.2.2	We have previously commented that we support the maintenance of the legal/case-law basis for each piece of the Guidelines, especially with regard to BoA decisions.		The Office did not agree with this comment. The Office stated that this passage is a general statement about the content of decisions issued by the EPO in cases of auxiliary requests. Since more detail in this respect is provided in parts E and H, where no T decisions are cited, we find it more appropriate and logical to merely refer to parts E and H and not to cite the T decision. One member emphasised that this was a general statement since it would be preferable for the Guidelines to contain more references to case law.
70	D-VI, 7.2.3	D-VI, 7.2.3. The normal procedure is to file translations of <u>any amended claims</u> in the two official languages of the EPO other than the language of the proceedings. It may happen that during opposition, a separate set of claims is filed for State XX. At the same time, the claims may remain identical for the other States. However, the Guidelines require (emphasis added): *If the European patent in the amended form contains different claims for different contracting states, a <u>translation of all sets of claims</u> – in the text communicated to the patent proprietor – into all*		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle. Generally, it was stated that this section still reflects current EPO practice and that therefore an update does not seem appropriate.

#	Part	Comment	Suggestion	Consultation results
		official languages other than the language of the proceedings must be filed. To be clear, this is nonsense. Only translations of amended claims are required by R82(2): "*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.*"		
71	D-VII, 1.2		Add ance to Art. 32 UPCA in the margin to (iii)	See comment #2.
72	D-VII, 4.2.1	Under Rule 14(1)	The example is about Rule 82(2), so the stay is under Rule 78(1)	The Office expressed thanks for this comment, which actually concerns D-VII, 4.3, and agreed to the proposed update.
#	**Part E**	**Comment**	**Suggestion**	**Consultation results**
73	E-II, 2.1	Guidelines E-II, 2.1 include the following paragraph: *Notifications may, where exceptional circumstances so require, be given through the intermediary of the central industrial property offices of the contracting states.*	It is suggested that the word "exceptional" be deleted, and that an example be provided: *Notifications may, where ~~exceptional~~ circumstances so require, be given through the intermediary of the central industrial property offices of the contracting states. This is for example the case when an application is deemed to be withdrawn under Rule 37(2) for failure to timely reaching the EPO, because the file stayed at a central industrial property office and the EPO does not have the applicant's address.*	This section of the Guidelines had not been amended but the Office was immediately able to clarify practice. The Office does not agree with removing the term "exceptional", as notification via national offices is a very exceptional situation. Moreover, the sentence concerned is the wording of Art. 119 itself. The rarity of this situation does not seem to merit inserting an example. There were no further comments from SACEPO WP/G members.
74	E-II, 2.3		Please add further examples of implementation of the new 7 day rule I	The Office agreed to insert an example illustrating how the time limit is calculated if the extra days added due to this

#	Part	Comment	Suggestion	Consultation results
			case of delays of receipt of communications.	safeguard result in a period expiring on a day when one of the EPO filing offices is closed.
75	E-II, 2.3	Essentially editorial amendment on Rule 126 (2) entering into force on 1 Nov 23; additional explanation on contested notification	For the sentence "By contrast, if the EPO's investigation shows proves that a document was received, for instance, four days after the date it bears, there will be no change in the period calculation" a more determined language is preferable. This also applies for the sentence "If notification is contested and the EPO cannot show prove that a document reached the addressee within seven days of the date it bears..." The term "prove" is also used in OJ EPO 2023, A29	The OJ notice uses the term "shows" in the section relating to late receipt with respect to the results of the investigation ("investigation shows"). The term "prove" is used with respect to the EPO in the section concerning non-receipt and receipt without a proven date of notification ("the EPO is unable to prove"). The Office stated that it will look into the matter. Rewording of the text and the insertion of an example may make it no longer necessary to use either of the terms.
76	E-II, 2.4	Editorial amendment		
77	E-III, 1.1	Typo? "(Rule 14)"?	Might be Art. 116 (3) EPC addressed	The Office agreed to remove this reference as the intended meaning, i.e. reference to *inter partes* proceedings, is not readily conveyed. The remaining sentence still provides the necessary information.
78	E-III, 1.1	The reference to Rule 14 seems to be a typo. The proper basis should be article 116(3)		See comment #77.
79	E-III, 1.2	Reasonable clarification that the division has the competence to hold the videoconference on the premises of the EPO and requests are possible		The Office expressed thanks for the positive comment.

#	Part	Comment	Suggestion	Consultation results
80	E-III, 5.1	Editorial amendment		
81	E-III, 8.1	Conditions for public access to oral proceedings via videoconference are defined.	GL should oblige the chairperson to ask the member of the public to at least "temporarily switch on their camera to allow the participants to ascertain their identity just as if they were attending the oral proceedings in person on the premises of the EPO" (OJ EPO 2022, A106 Annex 3).	The Office stated that OJ EPO 2022, A106, Annex 3, implies that the chair will ask a member of the public to turn on their camera only if they see a need to do so: "*If so requested by the chairperson, a member of the public must temporarily switch on their camera to allow the participants to ascertain their identity just as if they were attending the oral proceedings in person on the premises of the EPO."* This means that it is within the discretion of the chair to ask for the camera to be turned on. The Office did not see a reason to make the check mandatory. This would be very time-consuming and did not appear to address any particular problem. There were no further comments from SACEPO WP/G members.
82	E-III, 8.5.1.1	Editorial amendment		
83	E-III, 8.5.1.1	If same considerations apply to the Legal Division, the title is now misleading.	Change title to Inter partes proceedings	The Office intends to keep the titles as they stand. The information in these sections relates to opposition or examination proceedings. In fact, since the sentence that the same considerations apply to the Legal Division has been deleted, there is less reason to

#	Part	Comment	Suggestion	Consultation results
				amend the title to cover oral proceedings before the Legal Division. There were no further comments from SACEPO WP/G members.
84	E-III, 8.5.1.2	Editorial amendment		
85	E-III, 8.5.1.2	If same considerations apply to the Legal Division, the title is now misleading.	Change title to ex parte proceedings	See comment #83.
86	E-III, 8.5.2	signature on written submissions	Explanation by the EPO is reasonable; The third sentence of amended (second) paragraph should be clarified to refer to the second sentence: "In this case, the signature…" Otherwise it could be understood to also refer to the signature on the document (first sentence) which is usually a handwritten signature or an electronic signature	The Office confirmed that the signature on the document may be a facsimile signature or a string of characters, regardless of whether it appears in the content of the email or in the attachment. There had been no change of procedure. Rather than presenting the two alternatives as equally good, the text indicates that the first is the preferred option while the second is less preferred but will still be accepted. However, the Office agreed to amend the wording to better clarify the Office's intention. There were no further comments from SACEPO WP/G members.
87	E-III, 8.7.1	Clarification of permission to use EPO's technical facilities, particularly applicant/proprietor named to be permitted for amendments of application documents	Instead of naming the applicant/proprietor the "parties" could be named to enable opponents to print documents/drawings for sharing during oral proceedings	The Office agreed to the suggestion.
88	E-III, 8.7.3	Editorial amendment		

#	Part	Comment	Suggestion	Consultation results
89	E-III, 8.11.2	The modifications regarding new summons are reasonable; The part "Preferably, oral proceedings are not to last longer than eight working hours. Short extensions are possible if an imminent conclusion is likely." should be amended since proceedings regularly last until 8 pm, but can be concluded by then	"Short extensions" should be amended to "Extensions" to prevent a strict 8-hour-case-law, but still leaves it to the discretion of the chair	The Office intends to amend the wording as follows: "However, they may be extended slightly if an imminent conclusion seems likely." This wording would still leave discretion for a necessary extension. However, an extension until 20.00 hrs on a regular basis is not desirable. There were no further comments from SACEPO WP/G members.
90	E-III, 10.1	Modifications are basically editorial, but by canceling the term "only" door could be opened to further sound recordings	"only" should be kept or otherwise clarified; In E IV 1.7 (referenced by III-10.1) the sentence "In addition, the taking of evidence as well as oral proceedings (see E-III, 10.1) may be recorded on sound recording apparatus" may be clarified in the same way	The Office agreed to the suggestion.
91	E-III, 10.2	narrow interpretation of the term "statement" in R. 4(6) as exception seems to be reasonable with reference to T 1787/16		The Office expressed thanks for the positive comment.
92	E-III, 10.3	Recording of specific statements in the minutes only if essential for oral proceedings and relevant for decision is reasonable		The Office expressed thanks for the positive comment.
93	E-III, 10.3	The Guidelines define essentials of the oral proceedings as new statements arguing the presence or lack of novelty, inventive step and other patentability criteria – this should extend to any ground of objection/opposition. So, any argument made only in the opposition proceedings should be included. There is concern that the requirement "if they are relevant for the decision" could be		The Office agreed to clarify the meaning of the term "relevant". The Office also clarified that the division has discretion not to include statements which are not used to arrive at the decision, i.e. which are not relevant for the decision.

#	Part	Comment	Suggestion	Consultation results
		problematic as ,generally, the reason a party wants them in the minutes is because they haven't worked in opposition (i.e. the OD didn't think they were relevant) and you want to try them again in appeal but you don't want it to be a new argument. This seems to imply that the OD will only include new arguments that they agreed with. A broader problem is that often we observe that the minutes don't include specific statements forming part of the essentials of the oral proceedings meaning that parties often have to file submissions after the final submissions deadline to deal with arguments made by the other side in their final submissions, so that they are in writing.		This was not to be confused with "not convincing". If statements and arguments are relevant but simply not convincing, they are still included in the minutes. The request for minutes to contain any refused requests that specific statements be inserted plus the reasons for refusal required more thorough analysis and could not be addressed during this revision cycle. The broader policy aspects of more exhaustive recording of discussions in the minutes, rather than keeping them concise, related to unamended parts of this section and would therefore also not be considered for the current cycle. As regards a full verbatim recording of oral proceedings, the Office stated that this matter had already been discussed and pointed to possible data protection issues. Moreover, this topic fell under the responsibility of the SACEPO WP/R.
94	E-III, 10.3	Unclear expression.	Amend "See E-III, 10.2 for the language used for recording statements word-by-word." to "See E-III, 10.2 for recording statements made in a language other than the language of the proceedings". Further: An example of a permissible "statement" would be helpful. E.g. "disapproval of the text" in opposition?	The Office proposed a shorter reference such as "See E-III, 10.2 for the language requirements" since the title of E-III, 10.2 is "language". The bullet points listed in E-III, 10.2 provided sufficient examples of types of statements. It was not necessary to insert the suggested sentence as an example.

#	Part	Comment	Suggestion	Consultation results
				There were no further comments from SACEPO WP/G members.
95	E-IV, 4.1	Reasonable information from G 2/21	first paragraph, last sentence: Typo "led" might be "leads"	The Office agreed to rework the sentence, e.g. "The department sets out in the decision the reasons used for reaching its conclusions".
96	E-IV, 4.1	The writing may need a slight edit, but the additional emphasis on the importance of evaluating all evidence properly is generally positive		The Office expressed thanks for the positive comment.
97	E-IV, 4.1	Good		The Office expressed thanks for the positive comment.
98	E-V, 6	editorial amendment with reference to amendment in E III 10.2		
99	E-VIII, 1.5	reasonable example on time limits in case of restoration of priority right upon entry into EP phase		The Office expressed thanks for the positive comment.
100	E-VIII, 1.5	**E-VIII, 1.5** – The new added example is a bit superfluous, because this is prescribed in PCT Rule 26*bis*.2(c)(iii) which must be followed by the EPO (Art. 150(2), last sentence, EPC).	A reference to GL/PCT-EPO F-VI, 3.7 could be added.	The Office stated that the example had been added because members had requested clarification of the situation. The example was not apparent from GL/PCT-EPO F-VI, 3.7. The Office clarified that the EPC Guidelines should be as self-contained as possible. There were no further comments from SACEPO WP/G members.
101	E-VIII, 3.1.1	editorial change with respect to E-VIII/G1/86		---
102	E-VIII, 3.1.1	The clarification, in response to our earlier comment/request, is appreciated.		The Office expressed thanks for the positive comment.

#	Part	Comment	Suggestion	Consultation results
103	E-VIII, 3.1.2	reasonable examples on number of necessary re-establishment fees		The Office expressed thanks for the positive comment.
104	E-VIII, 3.1.3	The addition of the two examples, in response to our earlier suggestion, is appreciated.		The Office expressed thanks for the positive comment.
105	E-VIII, 4.1	2nd paragraph I think Gui E-VIII may need clarification in 4 and 4.1 regarding acceleration of search. In 4.1, I read this: *For European patent applications (including PCT applications entering the European phase where the EPO did not act as (S)ISA) which were filed before 1 July 2014 and which do claim priority (second filings), on receipt of a PACE request the EPO makes every effort to issue the extended/partial European search report within six months from receipt of the request.* Does it still make sense? Since all my applications were filed on or after 1 July 2014, no PACE request is needed. Can this not become the rule? Can §4 be clarified?	How many cases do this apply to?	The Office expressed thanks for the comment. It can be considered for the 2025 revision of the Guidelines.
106	E-IX, 3.4	**E-IX, 3.4** – It should be specified what the influence of Rule 137(4) EPC is in the situation of PCT Rule 20.5*bis*(d) and the applicant upon entry or following Rule 161 EPC, removes any erroneously filed application documents while keeping the corrected application documents. This is not clear from E-IX, 3.4.	Clarification requested	The Office stated that this was a recurrent comment. In view of the very few cases received and since these cases are limited to filing dates between 1 July 2020 and 31 October 2022, an update was not considered necessary.
107	E-IX, 3.4	**E-IX, 4.3** – In relation to Rule 161 EPC it is not specified – in the case of PCT Rule 20.5*bis*(d) – whether the applicant can remove any erroneously filed application documents while keeping the corrected application documents. It should be specified in which cases the applicant will receive an extended subject-matter notification	Clarification requested	See comment #106.

#	Part	Comment	Suggestion	Consultation results
		(Art. 123(2) EPC). Also see the earlier remark in relation to C-III 1.3. What happens if upon EP entry the applicant removes the correct application document or the erroneously filed documents – will that be allowable?		
108	E-X, 7	reasonable information on continuation of examination/opposition procedure		The Office expressed thanks for the positive comment.
109	E-X, 7	The last sentence provides: "For the effect of the expiry of the 20-year term on pending opposition proceedings see D-VII, 5.1" However, there appears to be no reference to the 20-year term in D-VII, 5.1.	It is suggested to add the effect of the expiry of the 20-year term on pending opposition proceedings to D-VII, 5.1, or in this section (E-X, 7). Please also add/confirm that, if the 9 month opposition period overruns the end of the 20-year term, it is still possible to file an opposition until the end of the 9m period, i.e., also if the 9 m expires after the 20-yr term. Please also add whether it is possible to file a request for limitation or revocation (Art. 105a) after the 20-yr term. And, if so, until when?	The Office agreed to add that it is possible to file a request for limitation or revocation after expiry of the term. There is no limit on when such a request may be filed. D-VII, 5.1 refers to "lapse of the patent", which means the expiry of its term. The text already specifies that it is possible to file an opposition after expiry of the patent term (i.e. if the nine-month period extends beyond the end of the term). There were no further comments from SACEPO WP/G members.
110	E-XII, 9	reasonable clarification on top-up search for NPR, particularly in the case of remittal for grant		The Office expressed thanks for the positive comment.
111	E-XII, 7.3	E-XII, 7.3 The last paragraph states: *The request for reimbursement of the appeal fee will be remitted to the board of appeal only if it was filed together with the appeal (see G 3/03 and T 21/02).* This would appear to be incorrect. T 21/02 states that where a request for reimbursement of the appeal fee pursuant to	In other words, the last paragraph of Guidelines E-XII, 7.3 should read: *A request for reimbursement of the appeal fee will be remitted to the board of appeal* ***only if it was filed before the contested decision had been rectified under Article 109(1) EPC*** *(see G 3/03 and T 21/02).*	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.

#	Part	Comment	Suggestion	Consultation results
		Rule 67 EPC was submitted only after the contested decision had been rectified under Article 109(1) EPC, no legal basis exists for the Board of Appeal to decide on that request. However, it does not state that the request cannot be submitted after the appeal, as long as it is on file before a decision has been taken as to the rectification.		
112	E-XIV, 3	"It lies within the responsibility of the requester, be it a professional representative or one of the contracting parties, to ensure that they are duly authorised in accordance with the national law applicable to sign such a document."	Please amend to the following: It does not lie within the responsibility of the EPO to ensure that signatories of such a document are duly authoried in accordance with the national law applicable to sign such a document.	The Office understands that the suggested sentence is intended as a replacement for the sentence added in the draft. Although the suggested sentence is correct, the Office did not agree to the replacement for the following reasons: The point of the change in practice is to adopt a more trust-based approach and thus to trust that the requester (mostly a representative) has ensured that the document was validly signed by an entitled person when submitting an assignment document. It would not be sufficient to negatively indicate that it is not the responsibility of the EPO, as the question then remains as to whose responsibility it would be. The Chair also stated that a rule change is envisaged to enable e-signatures for assignments; she also referred to J 5/23.
113	E-XIV, 3	reasonable amendment and communication by the EPO in case of unsatisfactory evidence of the signatory's authority		The Office expressed thanks for the positive comment.

#	Part	Comment	Suggestion	Consultation results
#	**Part F**	**Comment**	**Suggestion**	**Consultation results**
114	F-II, 6	We refer to our earlier discussion in the 25th SACEPO WPG meeting As earlier explained some of the conversion from an ST.25 to an ST.26 Sequence Listing creates added or lost matter in the case of a divisional: **Examples are attached at a separate document − Letter to EPO requesting a separate meeting: "Appndix A".**	**Epi request a special meeting on ST.26 Sequence Listings!**	See comment #18.
115	F-III, 3	Reads as though the whole field of AI is inherently vague. Reword.	Please amend as follows: "Another example can be found ~~in applications~~ in the field of artificial intelligence where the ~~level of detail of~~ employed mathematical methods and training data sets ~~is~~ may be disclosed in insufficient detail for reproducing a technical effect. The lack of detail may result in a disclosure that is more like an invitation to a research programme (see also G-II, 3.3.1)".	The Office agreed to the proposal.
116	F-III, 10	The clarification, in response to our earlier comment/request, is appreciated.		The Office expressed thanks for the positive comment.
117	F-IV, 2.2	The amended wording of F-IV, 2.2 suggests that the EPO is going to insist more on putting the claims in the two-part form than it did so far (already quite strict, but with some room for one-part form). It is worrying that this may again cause a situation as with F-IV, 4.3/4.4 w.r.t. bringing the description into conformity with the claim, and will cause an ongoing discussion for several years. As in that case, the EPO seems to be going to impose EPO requirement in a stricter way than imposed by the EPC itself (Rule 43(1) starts with "Wherever appropriate"). Also, as in that case, the	Delete the two added paragraph. It should be clear – as it is now – that the requirement for the two part form is only valid where appropriate Further, F-IV, 2.2 should explain clearly what is meant by "*which, in combination, form part of the prior art*" in Rule 43, namely technical features that can be	The Office has received a number of observations from users proposing keeping the wording from the 2023 Guidelines. The Office therefore agreed not to amend this section.

#	Part	Comment	Suggestion	Consultation results
		limited benefit of forcing such (overly-)strict requirement is not balanced with the negative effect that it has on applicants in other jurisdictions, where admitting that something is prior art and the extent to which it is, and the interpretation by the examiners in those other jurisdictions, may have serious negative effects to the applicant. Such negative effects shall not arise from a "Wherever appropriate", i.e., not strictly mandatory, requirement. Further, enforcing the rule more strict than necessary may risk a delay of the proceedings, which goes against the EPO wish for an efficient and timely procedure. Also, in many cases, the two-part form causes an artificial separation between features, sometimes even wrong, and may be detrimental against the conciseness of a claim. Any interpretation and application of a legal provision shall entail its purpose and the interests of the EPO and the parties - enforcing the two-part form more strictly does not meet that principle. It should also be noted that such a strict requirement as proposed by the EPO only results in an unnecessary prolonging of the prosecution process.	found together in a single document in the state of the art according to Art. 54(2).	
118	F-IV, 2.2	The amendments seem to suggest that the "whenever appropriate" as defined in Rule 43(1)a and b should be ignored. There is no legal basis for this suggestion and we strongly advise against these amendments.	Maintain the text of GL2023	See comment #117.
119	F-IV, 2.2	2 part form is an unhelpful, time consuming fiction; the effect is far better achieved by ensuring the prior art is acknowledged in the introduction		See comment #117.
120	F-IV, 2.3	See above in F-IV, 2.2 To add an example: the prior art shows a mobile phone with an LCD display screen and a capacitive touch screen placed with a small separated from that	§§ 2.2 and 2.3 shall not be amended and shall remain in their previous version. Please also add examples where it is appropriate and where it is not.	See comment #117.

#	Part	Comment	Suggestion	Consultation results
		LCD screen. The application claims a mobile phone with an OLED display screen and a resistive patterned layer on the surface of the OLED display screen to provide touch input. What is the correct two-part form? It is very artificial and legally not sound to consider the prior art to show a screen as the only screen disclosed is an LCD screen. Also, it is very artificial legally not sound to consider the prior art to show a layer in the mobile phone, as it shows a touch screen. An allowable and correct two-part form shall thus be: *A mobile phone characterized in that the mobile phone has :* *− an OLED display screen and* *− a resistive patterned layer on the surface of the OLED display screen to provide touch input.* However, that has the same content but is less concise (and hence not preferred) w.r.t. the one-part form: *A mobile phone having:* *− an OLED display screen and* *− a resistive patterned layer on the surface of the OLED display screen to provide touch input.* Whereas the wording in F-IV, 2.2 and 2.3 may cause the drafting of the claim in a (even wrong) two-part form which is far from clear and far from concise: *A mobile having a screen and a touch element positioned relative to the screen, the mobile phone characterized in that :* *− the screen is an OLED display screen,* *− the touch element is a resistive patterned layer, and* *− the touch element is positioned relative to the OLED display screen by being positioned on the surface of the OLED display screen.* Clearly the latter form shall not be used and the one-part form is to be used to have the most clear and concise form.		

#	Part	Comment	Suggestion	Consultation results
121	F-IV, 2.3	See 2.2		See comment #117.
122	F-IV, 2.3	It is proposed to remove section F-IV-2.3.2, 'Two-part form "wherever appropriate". The practice of applying the "two-part form wherever appropriate" has throughout the years been endorsed by multiple decisions of the Technical Boards of Appeal, such as T 0269/84, T 0248/07 or T 1881/09. Thus, the wording of Section F-IV, 2.3.2 does have legal basis, at least at the present date, and it should not be deleted.		See comment #117.
123	F-IV, 4.3	The added *Subject-matter in the description regarded as an exception to* *patentability under Art. 53 needs to be excised, reworded such that it does not fall under the exceptions to patentability or prominently marked as not being according to the claimed invention (see G II, 4.2 for adaptation of the description for methods of treatment of the human and animal body, G II, 5.3 for adaptation of the description for the use of human embryonic stem cells and G II, 5.4 for adaptation of the description for plant and animals).* Does the EPO consider the reader/skilled person to be STUPID!	Delete paragraph.	See also point 2 of the minutes. The Office and the SACEPO WP/G noted that a referral to the Enlarged Board of Appeal is highly likely. It was therefore agreed to keep the wording of F-IV, 4.3(iii) as it is until the Enlarged Board has issued its decision. The SACEPO WP/G agreed to the Office's approach.
124	F-IV, 4.3	Due to the conflicting case law and a possible referal to the EBoA relating the issue of mandatory adaptation of the description – T 56/21 − we strongly advise to refrain at this stage from any amendments which further emphasise that adaptation of the description is mandatory. We advise to take into account that T 56/21 mentions that "The board queries whether the EPO Guidelines are in line with the wording and purpose of Article 84 EPC and with	Maintain the tekst of GL2023 to see if a referal to EBoA will be filed	See comment #123.

#	Part	Comment	Suggestion	Consultation results
		the case law on clarity requiring that claims should be clear in themselves without having to resort to the description for an interpretation." A restrained approach to wait and see how this issue will develop is recommended.		
125	F-IV, 4.3	We still disagree with EPOs strict requirement to delete embodiments or mark the as not covered by the claims etc. This requirement completely deprives a patentee for his rightfully scope of protection pursuant to Art. 69 EPC which according to the Convention also include equivalent matter as specified the Protocol on the Interpretation of Article 69 EPC. The SACEPO members have previously provided suggested amendments and we maintain these suggestions. In addition we wish to draw the EPO attention to the following: A posts on LinkedIn in relation to adaptation of the description: • https://www.linkedin.com/posts/rose-hughes_adding-matter-by-amending-the-description-activity-7094598439824449536-QlOE (refers to https://ipkitten.blogspot.com/2023/08/adding-matter-by-amending-description.html'): which shows that there is a **considerable risk**! • In our view it is not acceptable the applicant shall be forced to amend the description which terms like "embodiments fallling outside the scope of the claims/ claimed invention/ invention as claimed / invention"		See comment #123.

#	Part	Comment	Suggestion	Consultation results
		• https://www.linkedin.com/posts/activity-7089145426997567489-30oT/, referring to and giving credit to https://europeanpatentcaselaw.blogspot.com/2023/07/t5621-vers-une-saisine-de-la-grande.html: possibly there will be a referral − the blog post indicates: "In proceedings T 56/21 (15700545.5) Board 3.3.04 proposed a question for a referral to the Enlarged Board of Appeal: Is there a lack of clarity of a claim or a lack of support of a claim by the description within the meaning of Article 84 EPC if a part of the disclosure of the invention in the description and/or drawings of an application (e.g. an embodiment of the invention, an example or a claim-like clause) is not encompassed by the subject-matter for which protection is sought ("inconsistency in scope between the description and/or drawings and the claims") and can an application consequently be refused based on Article 84 EPC if the applicant does not remove the inconsistency in scope between the description and/or drawings and the claims by way of amendment of the description ("adaptation of the description") ?" (see "F3305 Communication of the Board of Appeal (ex parte/ inter partes)" dd 21.07.2023). • https://www.linkedin.com/posts/johnny-haypee_ipmeme-ipabrmeme-activity-7095334188240789504-UG-t/ (…)		
126	F-IV, 4.3	F-IV-4.3 and 4.4 do not seem to take into account all our previsoulsy proposed changes or comments, to which we refer to. However, considering that a referral to the EBoA on this issue seems possible (EP3094648 – T 0056/21-3,3,04), we understand that no further changes made to the Guidelines are priority, especially before any EBoA decision is made on this topic. If any, and in light of the users experiences, it should be defined and made clear the		See comment #123.

#	Part	Comment	Suggestion	Consultation results
		meaning of "'borderline' cases", so as to avoid inconsistencies across the divisions.		
127	F-IV, 4.4	We still disagree with EPOs strict requirement to delete claim like clauses. The GI. Reasons this requirement in that such clauses otherwise do lead to unclarity, however as previously explained, it is established case-law that such clauses are not claims. (Case Law of the BoA, 10th edition II-A.8.1) and thus they do not give reasons for lack of clarity.		See comment #123. The Office stated that it was highly likely that the expected referral to the Enlarged Board of Appeal on adapting the description to the claims would also encompass claim-like clauses. One member stated that they received a request to delete claim-like clauses in nearly every Rule 71(3) communication. The Office confirmed that amended standard clauses for examiners will soon be implemented. They are expected to resolve the issue.
128	F-IV, 4.12	This point was also discussed at the 24th SACEPO WPG (See comment 55 discussed at the 24th SACEPO WPG) and at the 25th SACEPO WPG (point 89). Second paragraph **We respectfully disagree with the EPO's opinion and we maintain our point:** We are of the opinion that the EPC Guidelines should not insist on disclaimers for something that theoretically COULD have been made by an essentially biological process but wasn't, or where the EPO have not provided any evidence that is was or with reasonable probability could be made by an essentially biological process. There is also no legal basis for such disclaimers.	***We continues to stress that further clarification of when a disclaimer is required, if at all, is the lowest goal that we continue to strive for.*** We suggest an amendment of this paragraph in line with our suggested amendment below for G-II, 5.4. If the Examining Division require such a disclaimer, they bear the burden of proof and must provide evidence that the technical feature of the claimed plant or animal **was or with reasonable probability could be made by an essentially biological process.**	The Office stated that in accordance with established case law, the examining division must raise a substantiated objection. Due to the principle of absolute product protection, generic plant claims without a disclaimer cover the same plants made by crossing and selection. The general presumption, based on technical knowledge, is that a claimed technical feature may be the result of both a technical intervention and an essentially biological process because many mutations may occur in nature. This suffices to raise an objection under Rule 28(2) EPC. A substantiated objection does not further require specific evidence regarding a "reasonable probability", "likelihood" or the like that

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				the plant may also be obtained by crossing. As explicitly stated in the Guidelines, if the applicant can show that the feature in question can unambiguously be obtained by technical intervention only, e.g. a transgene, no disclaimer is necessary. SACEPO members underlined that in the case of multiple mutations, it is highly unlikely/impossible that the same mutations could occur in nature. Therefore, according to SACEPO members, in such cases, the Office should not require the disclaimer.
129	F-VI	**F-VI** – Why do the Guideline deal with priority twice: in F-VI and in A-III, 6. Why not make one version (only in F) and refer in Part A to F-VI…? Parts of the texts are complete copies…	Simplify the GL where appropriate as here.	The Office acknowledged that Part A and F both deal with priority. However, Part A considers purely formal aspects while Part F is mostly about the validity of a priority declaration and subsequent and partial priority. Nonetheless, this comment will be taken into consideration for the next revision cycle. There were no further comments from SACEPO WP/G members.
#	**Part G**	**Comment**	**Suggestion**	**Consultation results**
130	G-II, 3.3.1	This is an important and welcome clarification one suggested tweak – to bring this in line with the general rules on sufficiency. If a machine learning algorithm produces a technical effect by being applied to solve a problem in a field of technology, the characteristics of the training dataset		The Office agreed to amend this section.

#	Part	Comment	Suggestion	Consultation results
		required for reproducing this technical effect must be disclosed unless they are available from common general knowledge **or can be determined without undue burden**. However, there is generally no need to disclose specific training datasets.		
131	G-II, 3.3.2	**GL/EPO G-II, 3.3.2, simulation, design or modelling, section titled "*Simulations interacting with the external physical reality*"** It is suggested to add a paragraph at the end of this section, to refer to the legal background of G 1/19 and the explanation in T 0761/20 (Automated script grading/UNIVERSITY OF CAMBRIDGE) of 22-05-2023. The proposed wording corresponds to the headnote of T 761/20:	"According to G 1/19, a direct link with physical reality is not required for a technical effect to exist. However an at least indirect link to physical reality, internal or external to the computer, is required. The link can be mediated by the intended use or purpose of the invention ("when executed" or when put to its "implied technical use") (T 761/20)."	The Office did not agree to insert this paragraph since the wording of the link being mediated by the "purpose of the invention" may be interpreted broadly when taken out of the context of this decision. Such a broad interpretation would not be in line with G 1/19. Furthermore, T 761/20 is not about simulations and thus is not directly relevant for this section. This issue may be reassessed during the 2025 revision if further decisions are issued using similar wording.
132	G-II, 4.2	Point 95 of 25th SACEPO. It refers to adoption of the description "*Subject-matter in the description regarded as an exception to patentability needs to be excised, reworded such that it does not fall under the exceptions to patentability or prominently marked as not being according to the claimed invention (see F-IV, 4.3). For the latter case, in accordance with Art. 53(c the description may for example be amended by adding an indication as follows: "The references to the methods of treatment by therapy or surgery or in vivo diagnosis methods in examples X, Y and Z of this description are to be interpreted as references to compounds, pharmaceutical*	Amend as suggested last year #95 At least adding " unless it is already clear from the context that such excluded matter is not forming part of the claimed subject matter, for example by simply stating that ***methods of treatment by therapy or surgery or in vivo diagnosis methods are not claimed***.	See point 2 of the minutes and comment #123. In view of the potential referral to the Enlarged Board of Appeal on adaptation of the description, it was agreed that this section will not be amended.

#	Part	Comment	Suggestion	Consultation results
		compositions and medicaments of the present invention for use in those methods".	We find that this new paragraph, introducing an entirely new requirement, should be removed from the guidelines. There are no legal support for this requirement. The claim defines what is covered by a patent. The description has the purpose of supporting the claims – NOT THE PURPOSE OF DEFINING SCOPE. If a medical device is claimed and the description describes how it may be used in for treatment of the human or animal body by surgery or therapy and diagnostic method, there should not be any reason to include any of the mentioned statements, because inventions directed to such methods - by law - are excepted from patentability. If this is not accepted, we find, that as a minimum the following modification is required: Subject-matter in the description regarded as an exception to patentability needs to be excised, reworded such that it does not fall under the exceptions to patentability or prominently marked as not being according to the claimed invention (see F-IV, 4.3), unless it is already clear from the context that such excluded matter is not	

#	Part	Comment	Suggestion	Consultation results
			forming part of the claimed subject matter. ~~For the latter case~~, In accordance with Art. 53(c), the description may for example be amended by adding an indication as follows: "The references to the methods of treatment by therapy or surgery or in vivo diagnosis methods in examples X, Y and Z of this description are to be interpreted as references to compounds, pharmaceutical compositions and medicaments of the present invention for use in those methods".	
133	G-II, 6		For clarity, it is suggested to bring in line the wording and structure of items (a) to (h) in G-II, 6.1 with (reordered/combined) paragraphs 6.1.1-6.1.5	The Office expressed thanks for the suggestion and agreed to align the list with the titles of paragraphs 6.1.1 to 6.1.5.
134	G-II, 6.1.3	The merging of former sections G-II, 5.6.1.3 and 5.6.1.6 seems (partially) illogical, as an epitope is merely a (structural) part of an antigen. The following sentence needs to be clarified as it does not seem to make technical sense: "Antibodies are sometimes characterised by their ability to compete for binding with an antibody which is for the first time disclosed in the application.", as the section	It is suggested to move the sentence "An antibody may also be claimed by reference to its epitope, i.e., the structurally defined part of the antigen that it specifically binds." to section G-II, 6.1.2. Missing term in the sentence "In all these cases, in the absence of any indication to the contrary, it is to be assumed that a prior art antibody binding the same" Add: "antigen/epitope" after "same" It is suggested to delete these sentences altogether.	The Office disagreed on the first point. The ability to bind to an antigen or part thereof (epitope) is a functional feature, as also stated in item (d). Moreover, epitopes are treated as a functional feature in current 5.6.1.6, resulting in unnecessary repetition with 5.6.1.3. The Office thanked members for pointing out the editorial error. The Office thanked members and agreed that an improvement would be possible.

#	Part	Comment	Suggestion	Consultation results
		relates to characterisation of claimed Abs. Should therefore this not read: "Antibodies which are for the first time disclosed in the application are sometimes characterised by their ability to compete for binding with an (known) antibody."? In this case, the following sentence " However, this property will normally not be sufficient to identify antibodies in the state of the art. In such a case, a complete search cannot be carried out (B-VIII, 3) and invitation to indicate subject-matter for search under Rule 63(1) is sent (B-VIII, 3.1)" seems inappropriate as prior art searches are perfectly possible (i.e. the prior art antibodies). Evaluation of patentability is not different than for any other functional feature (cf. the subsequent paragraph in G-II, 6.1.3)		The claim type "An antibody competing for binding with antibody X" does not characterise antibody X. Wishing to remove any possible misunderstanding, the Office is considering replacing "Antibodies are sometimes characterised by their ability to compete for binding with an antibody which is for the first time disclosed in the application" with "Claims are sometimes directed to antibodies defined by their ability to compete for binding with an antibody which is for the first time disclosed in the application." The Office could not, however, agree to remove the contested sentences, as a complete search is normally not possible because antibodies are not identifiable based on this property. There were no further comments from SACEPO WP/G members.
135	G-II, 6.1.3	Missing word in third paragraph?	After "In all these cases, in the absence of any indication to the contrary, it is to be assumed that a prior art antibody binding the same" insert the word "target".	The Office thanked members for pointing out the editorial error and agreed to the proposal.
136	G-II, 6.1.3	**The section G-II-6.1.3 was amended as follows (the words in red were deleted, the words in green were added) :** *…. In all these cases, in the absence of any indication to the contrary, it is to be assumed that a prior art antibody binding the same If an antibody is claimed exclusively by functional features and the prior art discloses in an enabling manner an antibody directed to the same antigen using an immunisation and screening protocol that arrives at antibodies having*	Clarification is requested	See comment #135.

#	Part	Comment	Suggestion	Consultation results
		the claimed properties, it has to be assumed that the prior-art antibody inherently displays the same claimed functional properties as the claimed antibody,. Therefore a novelty objection may be raised and the burden of proof lies with the applicant which thus lacks novelty (cf. G-VI, 5G-VI, 65). On the other hand, if the antibody is defined by unusual parameters, care has to be taken that these do not disguise a lack of novelty (F-IV, 4.11.1). In both these cases the burden of proof of novelty resides with the applicant. **Comment: Same what? In practice this will make a big difference if it means "same target" vs "same epitope". Prior art publications may indicate which target, but not the epitope to which that antibody binds.**		
137	G-II, 6.1.4	The epi Biotechnology Committee will provide comments on this section as soon as possible.		
138	G-II, 6.2	"Examples of surprising technical effects include an unexpected improvement over prior art antibodies in one or more properties, such as ..." Why are improved affinity, reduced toxicity, and unexpected cross-reactivity deleted. Does this mean that these features per definition are not sufficient/applicable anymore for determining inventive step? They key issue is whether or not such features are unexpected or surprising. For example, it may very well be that the prior art has attempted (and failed) to obtain Abs having a particular affinity/toxicity/cross-reactivity. In such case, a new Ab having improved affinity/toxicity/cross-reactivity displays an unexpected/surprising property and should be acknowledged an inventive step.	It is suggested to maintain the deleted properties.	The Office did not agree to the proposal to keep the current version of the list. What is provided is a non-exhaustive list of exemplary properties for illustrative purposes. Therefore, the deletion of a property is not indicative of its relevance. The case of failure is addressed in this section (no expectation of success). There were no further comments from SACEPO WP/G members.

#	Part	Comment	Suggestion	Consultation results
139	G-II, 5.2 (probably 6.2)	**Section G-II-6.2 (i.e. Inventive step) was amended as follows (the words in red were deleted, the words in green were added):** *The subject-matter of a claim defining a novel, further antibody binding to a known antigen does not involve an inventive step unless a surprising technical effect is shown inby the application or unless there was no reasonable expectation of success of obtaining antibodies having the required properties (cfsee also G-VII, 13). Examples of surprising technical effects when compared to known and enabled antibodies are, for example, include an unexpected improvement over prior art antibodies in one or more properties, such as an improved affinity, an improved therapeutic activity, a reduced toxicitystability or immunogenicity, an unexpected species cross-reactivity or a new type of antibody format with proven binding activity or an unexpected property not exhibited by prior art antibodies.* *If inventive step of a functionally defined antibody relies on an improved property versus the enabled antibodies of the prior art, the main characteristics of the method for determining the property must also be indicated in the claim or indicated by reference to the description (F-IV, 4.11.1).* **Comment:** 1. **If the word "*further*" as marked above is deleted, what is the antibody being compared to for showing a surprising technical effect? Without "further" this means that a new antibody to an antigen − where there is no disclosure of a prior art antibody to that antigen − will be unable to show a surprising technical effect. And consequently be non-inventive. In other words the first antibody to an antigen will be inherently non-inventive. (especially as it is unclear what "known**		The Office did not agree. The first comment concerns the extremely rare case of the first (a "non-further") antibody to bind to a known antigen. This section provides at least two scenarios for considering such antibodies inventive: (1) there was no reasonable expectation of obtaining an antibody having the required properties; (2) the application overcomes technical difficulties in generating or manufacturing the claimed antibody. The deletion of exemplary properties is addressed in comment #138. At the meeting SACEPO members noted that the sentence on the requirement for six CDRs in the case of affinity, which had previously been contested, had been removed. The Office clarified that this had been done for the sake of conciseness, with no effect on current examination practice.

#	Part	Comment	Suggestion	Consultation results
		antigen" means). **Clarification is requested!** 2. **As above − if we delete "*when compared to known and enabled antibodies* , if it is the first antibody to that target − how can it show a technical effect?** **Clarification is requested!** **Improved affinity, reduced toxicity , unexpected species cross-reactivity are important properties that have been recognised by the EPO as evidence of a surprising technical effect and this list should not be shortened.**		
140	G-II, 6.2	The final sentence of 6.2 (former 5.6.2) is welcome and addresses a point that EP practice should encourage not only the development and identification of specific, particular antibody molecules, but also the improvement and development of *general antibody technology*, such as novel formats, platforms etc. However, in practice reasonable broad protection for such inventions is notoriously difficult to obtain based on a limites proof-of-concept experiments that an applicant can usually manage to produce, so while this sentence – "a novel type of functional antibody format may also be considered inventive" – is welcome, the guidelines should ideally further elaborate on what kind of generic claims would be possible, e.g. inventions changing the traditional order or architecture of Ig domains in an engineered construct, general modifications addressing manufacturability and purification of antibodies, formats with bi-, tri- and multispecific binding functions.	Importantly, it should be clearly stated that, ***to the extent such an invention is generally applicable to all or most antibodies, applicants should not have to limit their claims to amino acid sequences of the particular examples used to illustrate the general concept***.	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle. Nonetheless the Office is of the view that this new comment is a matter of both Art. 56 and 83, while section 6.2 concerns inventive step. In addition, the wording is not restrictive, and a "disclaimer" does not appear justified. There were no further comments from SACEPO WP/G members.

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141	G-IV, 5.4	It is a principle of procedural law generally recognised in the contracting states that two patents cannot be granted to the same applicant with claims directed to the same subject-matter.	Add "majority of" before "the contracting states (this is also in line with the G 4/19 decision)	The Office agreed to the proposal.
142	G-IV, 5.4	It is permissible to allow an applicant to proceed with two applications having the same description which do not claim the same subject-matter (see also T 2461/10).	It is also permissible to allow **to proceed** with … even if they claim the same subject-matter.	The Office thanked members for pointing out this issue. Since this was a new comment, it will be considered for the next revision cycle.
143	G-IV, 7.5.2 & 7.5.3	**GL/EPO G-IV, 7.5.2 & 7.5.3: "standard of proof", "free evaluation of evidence" and "burden of proof"** It is also noted that the principle of free evaluation of evidence is currently only described and defined in the context of internet disclosures in G-IV, 7.5, in particular subsection 7.5.2, and mentioned (but not defined) in the new text of G-VII, 11.	It is suggested to move this general principle of "free evaluation of evidence", as well as that of the "standard of proof" and "burden of proof" (now in G-IV, 7.5.3), e.g., to include it into section G-IV, 1 (General remarks and definition), where the last two paragraphs already relate to similar aspects. Further: It is suggested to add, based on T 0042/19 of 19-01-2023, catchword 6/reasons 3.2-3.6: "The evaluation of evidence only refers to establishing whether an alleged fact has been proven to the satisfaction of the deciding body. The discretion-like freedom is restricted to this question and does not extend to the further question of how the established facts are to be interpreted and what the legal consequences are (T 42/19)".	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle. There were no further comments from SACEPO WP/G members.
144	G-VI, 7	We note that there is now a single decision (T 1688/20 of 19 October 2022; conclusion in Reason 3.8) which applies - in contrast to the current "established case law" of the three items test (item i: narrow range; item ii: sufficiently far from specific examples; item iii: new technical teaching) - the "gold	The Guidelines should (still) refer to the established case law and refer to T 1688/20 of 19 October 2022."	The Office did not agree with the proposal. The Guidelines define the established practice at the EPO. When new practice is added to the Guidelines, the relevant T

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		standard" of "direct and unambiguous" disclosure to the concept of selection invention, thereby especially skipping item iii f the prevous test (the selected range is not an arbitrary specimen of the prior art, but another invention, a "purposive" selection, a new technical teaching (T 198/84, T 279/89)). For the time being, this new T 1688/20 does not (yet) represent "established case law". Moreover, the concept of "seriously contemplating" designed in the Guidelines proposal under this topic ("This is done by assessing whether the skilled person would seriously contemplate working in the claimed range. " and "If a concrete example falls slightly outside the claimed ranges, it needs to be assessed if the skilled person would seriously contemplate working inside all of the claimed ranges" (emphasis added)) is strangely applied for selections outside the disclosed ranges. This is in contrast to the rationale of the T 1688/20 and not even in line with the previous practice.		decisions are cited. However, once the new practice becomes established, any references to T decisions are deleted. The Office is well aware of T 1688/20 and continues to monitor the relevant case law. At present, T 1688/20 is considered an isolated decision.
145	G-VI, 7	an improvement overall, splitting out the most common situations (as the CLBA has done previously), and providing some new Markush guidance/examples are welcomed (although it's mis-spelt "Markus" formula at G-VI-17. Line 3). page VI-16 is a concern regarding multiple sub-ranges where elements of the ranges depend on each other, meaning they are not considered as isolated ranges but taken as a combination. First, it says this is "generally the case for the constituents of alloys and compositions". This seems too broad – especially any composition – it's actually likely to be very case dependent, based on if there is any actual interaction between the components, number of components, relative amounts etc. Second, the example provided to illustrate where two ranges might depend on each other is mis-leading. The example only includes two components (an alloy of Mg and Zn at c.20% total of		The Office partly agreed with the proposal and appreciated the positive overall comments. The Office also agreed to slightly amend this section. SACEPO members commented that there appeared to be a common understanding as to how this section is to be interpreted. The Office stated that the wording of the passage cited – "... *which is generally the case for...*" – had been carefully chosen to emphasise that there will be situations where the interdependency of the constituents needs to be checked, although it will not be necessary in many cases.

#	Part	Comment	Suggestion	Consultation results
		the composition). Would these components really depend on each other? The case which (as we understand) lead to this guidance was T 261/15 – but this included lots of components, making up a high proportion of the composition, and importantly the amounts were necessarily linked because the components interacted with each other to form precipitates and solid solutions. Hence, it was fair to say that they would depend on each other. This doesn't seem to be the case for just two metals making up a small proportion of an alloy, let alone any "alloy or composition". Hence the example seems like a potentially troublesome over-simplification, eg being used in the case of a two component composition, to argue lack of novelty because the amounts of the components must be dependent on each other (meaning it's a single selection, not a multiple selection). This would be an undesirable outcome.		However, "dependency" was not intended to mean full dependency, but that a certain interaction needs to be taken into account. Similarly, the example defining an alloy had been chosen carefully. The alloy comprises a certain range of Mg and of Zn *and other metals*. If the alloy comprised only two metals, then indeed a single selection of one metal would automatically yield the content of the other metal. However, the alloy comprises other metals and is therefore considered a good simplified example of T 261/15, which itself is too complex to be used in the Guidelines. In any case, the Office will monitor how this revised section is perceived and interpreted. If needed, further clarifications can be made in one of the next revision cycles.
146	G-VI, 7	This is done by assessing whether the skilled person would seriously contemplate working in the claimed range. His paragraph is for inventive step and should not be included under "Novelty" "Serious contemplating" and "Purposive selection" should no longer be used as a test for novelty. The "Gold standard" test is to be applied only.		The Office did not agree with the proposal. It stated that "*seriously contemplating*" was the wording used in the current version of the Guidelines, which reflects established case law. "*Purposive selection*" was deleted from the Guidelines many years ago. The Office stated that it was well aware of T 1688/20 and continues to monitor the relevant case law. At present, T 1688/20 is considered an isolated decision.

#	Part	Comment	Suggestion	Consultation results
				There were no further comments from SACEPO WP/G members.
147	G-VI, 7.1	The facts of T 175/97 seems to be over-interpreted. Taking the example given in the Guideline the margin of error for a value of 3.5 is 3.45 to 3.54. On this interpretation there would be a range of values that could never exist. What happens to 3.54999999? Conventionally (and mathematically) this value would be rounded to 3.5 (i.e. 3.5 would be interpreted as having values from 3.45 to <3.55).	Delete ", e.g. for a measurement of 3.5 cm, the error margin is 3.45-3.54"	The Office did not agree to the proposal. Moreover, it concerned a section which had not been amended in the 2024 revision cycle. It stated that the example provided in the comment was not correct. An exact value is never rounded twice, i.e. first from 8 digits after the decimal point to 2 digits and only then to one digit. The example in the Guidelines deals with decimal values with only two digits after the decimal point. This is considered to be clear to the skilled person with a technical education. There were no further comments from SACEPO WP/G members.
148	G-VII, 11	The sentence "Such new effects can only be taken into account if they are implied by or at least related to a technical problem initially suggested in the originally filed application (see also G-VII, 5.2, T 386/89 and T 184/82)." has been deleted.	Suggestion to re-formulate as below: "Effects implied by or at least related to a technical problem initially suggested in the originally filed application are considered.", since these are not "new" effects.	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
149	G-VII, 11	Insofar as they directly import the wording of the G 2/21 headnote (about effects "encompassed by the technical teaching" etc), the changes are acceptble though we anticipate revision once the Boards deal with the practical implications. We note that the old language (about new technical effects being implied by or at least related to the		The Office agreed to the proposed amendment and thanked members for pointing out the required amendment. There were no further comments from SACEPO WP/G members.

#	Part	Comment	Suggestion	Consultation results
		technical problem initially suggested) still appears in section G VII 5.2 ("Formulation of the technical problem"), which was perhaps an oversight.		
#	**Part H**	**Comment**	**Suggestion**	**Consultation results**
150	H-II, 2.2	H-II, 2.2 The words "within the time limit for responding to the search opinion" do not reflect R137(2) which reads "together with any comments, corrections or amendments made in response to communications by the European Patent Office under Rule 70a, paragraph 1 or 2, or Rule 161, paragraph 1".	It should be clarified that this also applies when responding with further processing (which is actually within a time limit for responding ...).	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
151	H-II, 2.5.4, 2.6	H-II, 2.5.4 and 2.6 Isn't it time to delete H-III, 2.1.4? Ii is more efficient to send a R137(4) communication! Which applicant will object rather than simply reply? In the second § of 2.6, the reference to H-III, 2.1.4 is absent, and this appears fine.		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
152	H-II, 2.7, 2.7.1	H-II, 2.7 and 2.7.1 I believe the date is actually set under R116(1). The wording should be adapted, because it is R116(that is applied, but it refers to R116(1) that sets the date.	Suggestion: "set in response to an invitation R116(2) after the date specified in R116(1)"	The Office agreed to the proposal.
153	H-II, 3.2	H-II, 3.2 c) The proposed amendment gives the wrong impression that the adaptation is a comprehensive redrafting.	Suggestion: "but an adaptation of the description may be required, see..."	The Office stated that an adaptation is not necessarily a comprehensive redrafting of the description but could be. Even if it was, it would be not only allowable but necessary.
154	H-II, 3.4	H-II, 3.4 The title says unallowable, §1 says "not admitted". This is incoherent.	Please clarify.	The Office agreed and stated that the title will be changed to "Insistence on inadmissible amendments".

#	Part	Comment	Suggestion	Consultation results
155	H-III, 2.1.2	H-III, 2.1.2, second and last § Why not explain here that the R112 notification must indicate clear reason?		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
156	H-III, 2.1.3	H-III, 2.1.3, first § Unreasonable: the OD must request the basis extemporaneously.		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
157	H-III, 2.1.4	H-III, 2.1.4 Isn't it time to delete H-III, 2.1.4?		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
158	H-III, 2.2	H-III, 2.2 EXCELLENT, but should be adapted to OP by ViCo = delete "handwritten".		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
159	H-III, 2.3	H-III, 2.3, second § Looks complicated in practice Why not say that this is used only for discussion purposes, and that amended § are to be submitted.		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
160	H-III, 3.3.5	H-III, 3.3.5 Specify the procedure during ex parte OP.		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
161	H-III, 4.4	H-III, 4.4, sixth § A reference to H-III, 4.1 should be preferred (much better than this §)		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
162	H-III, 5	H-III, 5 Mentioning claims fees after opposition gives the wrong impression. Maybe add that claims fees are last due in response to 71(3).		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
163	H-IV, 2.2.3	The clarification, in response to our earlier comment/request, is appreciated.		The Office expressed thanks for the positive comment.

#	Part	Comment	Suggestion	Consultation results
164	H-IV, 2.3.4	H-IV, 2.3.4 This is unclear.	"normally" should be clarified (the WO publication is used, unless ...).	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
165	H-IV, 3.6	H-IV, 3.6 For clarity, this example should refer to a claim, not a patent, then state that if a patent only contains such claims, then it is inevitably revoked.		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
166	H-IV, 5.6	H-IV, 5.6, second § The first sentence appears incorrect, in the sense that it appears to consider that opposition always involves amendments.		The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.
167	H-VI, 2.2		**GL/EPO H-VI, 2.2, Allowability Rule 139 (general)** It is proposed to add the principles developed by the Boards of Appeal, in particular the Legal Board of Appeal, as phrased in G 1/12, r.37, to H-VI, 2.2: Principles for allowability of correction under Rule 139 EPC as developed by the Boards of Appeal, in particular the Legal Board of Appeal, are (G 1/12, J 8/80): a) the correction introduces what was originally intended. Possibility of correction cannot be used to enable a person to give effect to a change of mind or development of plans (J 8/80, J 6/91). It is the party's actual rather than ostensible intention which must be considered; b) where the original intention is not immediately apparent, the requester bears the burden of proof, which must be a heavy one; c) the error to be remedied may be an incorrect statement or an omission; and	The Office stated that this was a new comment. It will therefore be considered for the next revision cycle.

#	Part	Comment	Suggestion	Consultation results
			d) the request for correction must be filed without delay. As a rule, criteria (a) to (d) are to be assessed in the order (c), (a), if applicable, together with (b), and (d) (T 1678/21). Further, it includes balancing of the public interest in legal certainty with the interest of the party requesting correction, with the factors (i.e. sub-criteria of this criterion) relevant to the specific case (T 1678/21), such as the time limitations described in H-VI, 2.1 (i)-(ii)	