30th SACEPO WP/G meeting 14 October 2025 - Consultation results of the discussions on the draft EPC GL2026

Replies to the users' comments were shared with the members in advance of the meeting. Comments marked in green were addressed during the 30th SACEPO WP/G meeting.

#	Part	Chapter	Section	Comments	Suggestion	Consultation results
1			**General comment**	Despite a strong urge of the epi delegation in SACEPO WP/G, supported by several other members of SACEPO WP/G, as well as a unanimous motion of epi Council (of which the EPO has been informed promptly after the C99 Council meeting of 10 May 2025), the UP GL are still only available as HTMP and not also as pdf on the EPO website (today is 18/7/2025). For completeness, decision 19 of C99 reads: Council agrees that a) The Unitary Patent Guidelines (2025) shall also be published in pdf; b) The EPC Guidelines, the PCT-EPO Guidelines and the Unitary Patent Guidelines shall continue to be published as pdf in 2026 and thereafter, in addition to the HTML format; c) Both pdf and HTML versions shall also be published in a form that easily allows to identify modifications relative to the previous edition (as is currently done in the pdf and HTML versions of the EPC Guidelines and the PCT-EPO Guidelines), as well as, if introduced, intermediate updates (as is currently under discussion at the EPO and in SACEPO WP/G);	The EPO is strongly urged to satisfy the request from the users.	The Office explained that the General Part, section 1.1 of the draft GL2026 sent to SACEPO WP/G members states that the Guidelines are published in HTML format and in PDF. The concerns have therefore been addressed. There were no further comments from SACEPO WP/G members.

				d) epi Council unanimously requests the EPO to publish the Unitary Patent Guidelines (2025) **also in pdf format**, and to continue publishing all three Guidelines (the EPC Guidelines, the PCT-EPO Guidelines and the UP Guidelines), in clean and show-modification versions, also in pdf format in 2026 and beyond.		
2			**General comment**	We maintain our request that the EPO provide an internet site where amended rules, new G decision, decision by the President of the EPO and other relevant decision provided after the last revision of the guidelines and therefore are not included in the guidelines are listed. Each item should be listed with an indication of which part(s) of the guidelines will need to be modified in the next revision cycle.		The Office clarified that the process for developing a new publication process for the Guidelines is still at an early stage. Once it is clear what the new process will look like, implementing further improvements may be envisaged. There were no further comments from SACEPO WP/G members.
3	**GP**		1.1	This should be clarified as at present it states: *These Guidelines are updated every year in April to take account of developments in European patent law and practice. Usually, updates involve amendments to specific sentences or passages on individual pages, in order to bring the text into line with patent law and EPO practice as these continue to evolve. It follows that no update can ever claim to be complete. In general, each edition is updated to reflect the situation as at 1 December of the previous year.* Since changes in EP Rules tend to take place with effective date of 1st April this at first sight indicates the Guidelines to be out of date on publication.	Add a list of legal changes (rules, presidential decisions, ratifications) taking effect after 1st December indicating which ***have*** been incorporated into the Guidelines and which ***have not*** been incorporated into the Guidelines. [on the HTML version add to this list as the year progresses]. Consider amending the last sentence to *"In general, each edition is updated to reflect the situation as known at **31** December of the previous year."* *Thereby also decision taken at the December Admin Council meeting can (and should) be included.*	See comment 2. The new publication process may give more flexibility on the cut-off date, once it is in place. The Office took note of the proposal to extend the cut-off date to 31 December for any updates in the Guidelines, but fails to see any advantages to this. With a few exceptions (e.g. a decision of the Enlarged Board of appeal), the Office is usually in a position to anticipate potential changes on 1 December. This applies to Rule changes too, given the specificities of the legislative process. There were no further comments from SACEPO WP/G members.
4	**GP**		1.1	The Guidelines clearly state:	Please be more directive in requiring examiners to use the latest version of the	The Office thanked the user for the comment but noted that it does not relate to the quality of the Guidelines.

				"The **binding** version of the Guidelines for Examination in the European Patent Office is ..." However, not all examiners consider themselves bound by the version that is in force. It still happens that examiners refer to (sometimes very (!!) old) Guidelines. This has the risk that their opinion cannot be understood by the applicant/representative or other members of the division, as the references may be very wrong (esp. when referring to versions that had 5 parts, before Parts F, G, H were introduced in 2012, as in the case below). Also, the examiner will clearly use outdated guidelines/principles/instructions when citing and using such old versions (when there have been law changes or interpretation changes due to case law, esp. G decisions). E.g., in the EESR (EESR dd January 2025; examiner [redacted] of a recent application (filed July 2024; not yet published) ***[PLEASE DO NOT SHARE THE APPLICATION NUMBER AND THE DETAILED BIBLIO DATA OF THE APPLICATION IN THE PUBLISHED OVERVIEW OF COMMENTS – KEEP INTERNAL in epi GL cie and SACEPO WP/G]***: W.r.t. item 12 of the search opinion: 12 The features of the claims should be provided with reference signs p parentheses to increase the intelligibility of the claims (**Rule 43(7) E** applies to both the preamble and characterising portion (see the **Gu III, 4.19**). The search opinion was drafted in January 2025 and should have referred to the Guidelines of March 2024, which was	Guidelines, and to be up-to-date as to their contents. Check every Guidelines citation in every opinion and communication before issuing them. Explicitly indicate the Guidelines version in every Guidelines citation in any opinion and communication and optionally embed a hyperlink in the communication.	Information sessions on the new Guidelines are offered every year to all examiners. These remain available online during the revision cycle. Acknowledging the importance of the issue, the Office also committed to reflect on further measures to increase awareness among examiners. On a general note, the Office confirms that it is taking multiple measures to improve quality, like the Quality Action Plan 2026, which is currently in preparation The Office also pointed to the options users have to report any quality issues observed (general feedback, the complaints procedure and the Ombuds Office). SACEPO WP/G members stated that Google search results lead to outdated Guideline sections and, as a side note, added that the Office's Legal Interactive Platform (LIP) was not currently considered a reliable alternative.

				the version in force at that time and which is binding (see General Part 1.1 in the current summer draft (formerly in section 1)) . However, the reference to C-III, 4.19 in relation to missing reference signs in the claims does not make any sense in the context of the Guidelines of March 2024 nor of that of March 2023 or any earlier "recent" year. The examiner used a version of more than 12 years (!!!) ago: already since the 2012 edition, this section on reference signs is in Part F-IV, 4.18. (see https://www.epo.org/en/legal/guidelines/archive). This raises serious worries that the examiner bases her opinion on an out-dated Guidelines version, not only here but also in the rest of the opinion. E.g., in item 13 of the search opinion: 13 The units expressed in claims 10-11 and on the respective passage description (page 12 lines 12 and 16-17) do not meet the requireme **35(12) EPC** and should be replaced by the appropriate SI units (cf. lines, **C-II, Annex 1**). The present expressions should, however, be parentheses after the replacement expressions. Already since the 2012 edition, this section on units is not anymore in Part C, but in Part F: F-II, 4.13 and Annex 2. (see https://www.epo.org/en/legal/guidelines/archive).		
5	**GP**		1.2		Proposal: For "welcome any time" suggest either "welcome anytime" or, preferably, "welcome at any time".	The Office thanked the user for the comment. Language Services will look into the matter.
6	**GP**		2	Title for 2 on contents page (Explanatory notes for the use of the Guidelines) is not the same as in the text (Explanatory notes on how to use the Guidelines).		The Office thanked the user for the comment. The content overview will be edited before the Guidelines are finalised for publication.
7	**GP**		2.1	At the foot of the section "CV, 4.6" should read "C-V, 4.6".	Insert "-".	The Office thanked the user for the comment, noting that formatting issues of this kind can arise when converting to PDF.

8	**GP**		2.1		Proposal: end of Section 2.1 "… be used for referring to subsection …" should read "to refer to".	The Office thanked the user for the comment. Language Services will look into the matter.
9	**GP**		2.2		end of Section 2.2 Proposal: replace future tense for reference to EPC articles and rules with present tense as for EPC1973, i.e., "The reference to articles and rules – and their paragraphs – of EPC 2000 is as follows: "Article 123, paragraph 2" is: "Art. 123(2)", "Rule 29, paragraph 7" is: "Rule 29(7)". Knock on effect for later paragraph with G decision ref. Others consistently present tense.	The Office agreed to the proposal.
10	**GP**		3		Title for 3.3 on contents page ("Euro-direct", "Euro-PCT" and "international application") not the same as in the text (Applicable law to "Euro-direct", "Euro-PCT" and "international application"). Proposal: both read " Law applicable law to "Euro-direct", "Euro-PCT" and "international application")	The Office thanked the user for the comment. Language Services will look into the matter.
11	**GP**		3.1 and many sections in all Parts	The Guidelines have introduced the terms "Euro-direct route" and "Euro-direct application". However, the more common term used in the field is "EP-direct route" and "EP-direct" application. This has also always been the common term in the Guidelines (see, e.g., A-III, 13.2, first section with title *"EP-direct"* and A-XII, 1.2). It is therefore requested to use the latter terms, so as to a) align with common practice, b) keep the established terminology used in earlier GL versions for years, and c) to better distinguish from the term "Euro-PCT" (which is given by the EPC itself in Art. 153(2) EPC) – a mathematician would refer to "a larger Hamming distance", a concept used to	Please use the terms "EP-direct", rather than "Euro-direct".	The Office explained that it did not have a strong preference or rule as to which of the terms should be used, but will consult Language Services. The term "Euro-direct" is considered more international and contemporary. Consequently, the term "Euro-direct" has been used in the new/updated chapters A-I and XII-XV; "EP-direct" has been replaced by "Euro-direct" in Part A-III, 13.2. In EPO publications, the terms "Euro-direct" and "EP-direct" application are both used to refer to an application filed under the EPC (see A-XII, 1.2). The Office confirmed that it was open to discussions on the issue.

				become more robust against misunderstanding and errors.		There were no further comments from SACEPO WP/G members.
12	**GP**		3.2	In the 3rd paragraph the phrase *"-likewise as the terms "Euro-direct application" and "Euro-direct route"* –" is confusing and unnecessary	Remove this phrase.	The Office disagreed, believing that the sentence clarifies the terminology used to identify the origin of the application in respect of the filing route. It is noted that Language Services amended the text to: "*The terms "Euro-PCT route" and "Euro-PCT application" thus refer – like the terms "Euro-direct route" and "Euro-direct application" – to the procedure for and origin of a European patent application.*" If this sentence was deleted, the following sentence(s) would be out of context. The Office notes that the use of both terms is explicitly addressed in A-XII, 1, which reads (in slightly amended form): "In EPO publications, the terms "Euro-direct" and "EP-direct" application are both used to refer to an application filed under the EPC. The term "Euro-PCT application" refers both to the character of the application as one filed under the PCT and to the fact that the EPO is a designated/elected Office for that application (A-I, 2; General Part, 3)." There were no further comments from SACEPO WP/G members.
13	**GP**		3.3	The term "primarily" in "while the processing in the European phase before the EPO as designated/elected Office is governed **primarily** by the EPC, however with the PCT prevailing (Art. 150(2) EPC, see A-XII, 1.1)." is incorrect in view of Art. 150(2), second and last sentence:	Amend to: "while the processing in the European phase before the EPO as designated/elected Office is governed by the PCT supplemented ~~primarily~~ by the EPC, ~~however~~ with the PCT prevailing in	The Office clarified that the EPC is always the primary source on which any activity is based in any proceedings under the EPC. The EPC is the Treaty that enables the EPO to act as RO, ISA/IPEA and DO/EO under Articles 150 – 153 EPC. However, in

				"(2) International applications filed under the PCT may be the subject of ***proceedings before the European Patent Office. In such proceedings, the provisions of the PCT and its Regulations shall be applied, supplemented by the provisions of this Convention****. In case of conflict, the provisions of the PCT or its Regulations shall prevail."* So, the PCT is primarily applied, and the EPC is supplementary.	case of conflict (Art. 150(2) EPC, see A-XII, 1.1)."	any such proceedings the EPO must apply prevailing PCT law. One member suggested that the section should better express the fact that the PCT is applied, while the EPO is both authorised and obliged under the EPC. The Office took note of the remark and indicated that the section will be clarified. This has resulted in the revision of the text in paragraphs 2 and 3 of GP. The intended clarification of paragraph 3 was already provided in the context of comment 14, but has been further improved.
14	**GP**		3.3	The phrase "If an international application is subject to proceedings before the EPO in any of its roles under the PCT, the legal basis for any such EPO activity is provided for in the EPC, Part X (see A-XII, 1)." Is **incorrect**: The legal basis for those in the PCT and the EPOorg-WIPO Agreements under PCT Art. 16(3) and 32(3), supplemented with Art. 150-152 EPC and Rule 157-158 EPC.	Amend to: "If an international application is subject to proceedings before the EPO in any of its **international** roles under the PCT, the legal basis for any such EPO activity is provided for **in the PCT and the EPOorg-WIPO Agreements under PCT Art. 16(3) and 32(3), supplemented with Art. 150-152 and Rule 157-158 of the EPC** (see A-XII, 1)".	See also comment 13. The Office, referring to the fact that the EPO is authorised by Article 152 EPC and that this was a matter of hierarchy of norms, confirmed that it will reword the sentence to avoid the misunderstanding as follows: "If an international application is subject to proceedings before the EPO in any of its roles under the PCT, the legal basis for any such EPO activity is provided for in the EPC, Part X (see A-XII, 1)." Arts. 150 to Art. 153 allow and oblige the EPO to act as receiving Office, International Authority (IA), i.e. (S)ISA and IPEA, and designated/elected Office in accordance with the principle of precedence of the PCT and supplementary application of the EPC (Art. 150)." There were no further comments from SACEPO WP/G members.
15	**GP**		3.3	The phrase "For the proceedings in the European phase most legal provisions are	Add appropriate PCT citations.	The Office disagreed. Detailed information and examples are given in A-XII, 1.1, to

				provided in Art. 153 EPC and in ...” has to be extended with the legal basis in the PCT that providers for dO/eOs and the (limitations in) their competence. PCT Art. 27-28 (and 24-26) and 30 (and 40-42), and their Rules, esp R.51bis-52 and 76-78.		which this section of the GP refers. However, the role of the PCT in the European phase has been clarified by the changes made to paragraphs 3.2. and 3.3. There were no further comments from SACEPO WP/G members.
16	**GP**		3.3		Proposal: replace “however” with “albeit”	The Office thanked the user for the comment. Language Services will look into the matter.
17	**GP**		3.4		Proposal: Section 3.4, 3rd paragraph - move “the EPO informs about a change of practice” to the end of the sentence. This is clearer and also consistent with the next sentence.	The Office thanked the user for the comment. Language Services will look into the matter
18	**GP**		3.4	The wording “The present Guidelines are primarily intended to **serve** examiners and formalities officers of the EPO...” does not reflect the binding nature of the Guidelines.	Amend to the wording of GL 2025 and before: “The present Guidelines are **addressed primarily** to examiners and formalities officers of the EPO,… ”	The Office made reference to the case law book, III.W.2: "*The Guidelines state (General Part, 3 – April 2025 version): "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. The application of the Guidelines to individual European patent applications or patents is the responsibility of the formalities officers and examiners. As a general rule, parties may expect the EPO to act in accordance with the Guidelines. It should be noted also that the Guidelines do not constitute legal provisions. For the ultimate authority on practice in the EPO, it is necessary to refer firstly to the European Patent Convention*". The Office further stated that Language Services have sincee edited the sentence to read as follows:

						"The present Guidelines are primarily for examiners and formalities officers of the EPO, but are also intended to serve the parties to the proceedings and patent practitioners as a basis for illustrating the law and practice in proceedings before the EPO." There were no further comments from SACEPO WP/G members.
19	**GP**		3.4	The GL said (in previous general 3) and now still say "It should be noted also that the Guidelines do not constitute legal provisions. For the ultimate authority on practice in the EPO, it is necessary to refer firstly to the European Patent Convention itself [...], and secondly to the interpretation put upon the EPC by the boards of appeal and the Enlarged Board of Appeal." However, it is observed that examiners in practice hardly ever are willing to deviate from the Guidelines, and rather take them as legal provisions. In particular does referring to "the interpretation put upon the EPC by the boards of appeal and the Enlarged Board of Appeal" generally not have any effect, other than "I need to follow the Guidelines". It seems that examiners need to be made more aware, by the EPO, that the Guidelines are not the law and that indeed arguments submitted by applicants based on case law shall be considered with a higher authority than the Guidelines themselves. The examiners seem to take the 4th and 5th paragraphs to de facto make the cited		The Office stated that the Guidelines define the practice of the Office. As procedure before the Office must be consistent and harmonised, it is necessary to have a framework that defines that practice. If the Guidelines were not followed by examiners, that would lead to less harmonised practice. Moreover, the Boards of Appeal have reiterated on several occasions that the Guidelines are a source of legitimate expectations, while regularly emphasising that, most importantly, divisions must act according to the EPC. Individual decisions from the Boards of Appeal cannot be taken into account. Harmonised practice is built on established case law. Therefore, in addition to the decisions from the Enlarged Board of Appeal, the Guidelines reflect those decisions of the Boards of Appeal that are relevant for the EPO's general practice. Any new relevant case law is reflected in the Guidelines, which are revised annually; examiners are informed accordingly. Often the circumstances of an underlying case justify not taking a specific decision into account.

				sentence on the authority of case law void. The latter is not correct and shall not be accepted.		One member asked why more weight was not given to case law, which is sometimes more precise. Confirming its reply, the Office stated that legal certainty and harmonisation require caution, which explains why divisions generally base their decisions on the Guidelines; these contain the relevant legal principles developed in case law, in addition to G-decisions. However, further clarification of this section may be envisaged in the next revision cycle.
20	**GP**		4	In “Also, it should not be forgotten that the reputation of the EPO depends not only on the quality of its work products as such, but also on the timeliness with which it delivers them”: What are “work products”? What does the “them” refer to? Why “it/its” and not “they/theirs” or “the EPO/of the EPO”.		The Office stated that what the term "work products" refers to and how the back references in this sentence are related are considered clear. The context makes the terminology and relations even clearer. This is the corresponding paragraph in German: "*Es darf nicht außer Acht gelassen werden, dass der Ruf des EPA nicht nur von der Qualität seiner Arbeit, sondern auch von der Pünktlichkeit seiner Arbeitsergebnisse abhängt. Das EPÜ setzt den Beteiligten Fristen. Das europäische Patentsystem wird nur dann Erfolg haben können, wenn die Prüfer und sonstigen Bediensteten ihre Arbeit ebenfalls innerhalb einer angemessenen Frist verrichten*." There were no further comments from SACEPO WP/G members.
21	**GP**		4	"Therefore, and given that it is a public authority, the EPO must ensure equal treatment and equal service levels within the limits of the law in all proceedings related to applications and patents,	Proposal: Also refer to the EPO ensuring equal treatment of applications regardless of the field of technology. It does not seem appropriate for the EPO to favour any	The Office stated that it does not see any need to specifically point this out. It clarified that it would not have the competence to set such priorities, since the EPC does not refer to any possibility of unequal treatment.

				regardless of their country of origin, the language in which they are written, or whether they were filed as a Euro-direct or a Euro-PCT application".	particular field of technology for any reason other than what is specified in the EPC.	There were no further comments from SACEPO WP/G members.
22	**GP**		5	The responsibility of applicants and the Office vis-à-vis the use of AI tools are expressed using different wording.	Amend to mention the responsibility of the applicants and **the Office** using the same wording (for example "The Office is responsible for the content of communications regardless …")	The Office stated that it believed that the substance of the suggestion is already contained in the second paragraph of GP-5. The Office furthermore pointed out that it has a clear AI policy published on its website. The statements given there should remove any concerns about this policy. The Office agreed to add the link to the relevant EPO website to section 5. There were no further comments from SACEPO WP/G members.
23	**GP**		5		Proposal: Definition of "The parties" (Does this mean the applicant and their representative?) Proposal: Section 5 title (The use of artificial intelligence) is missing in the contents page and subsequent contents headings need to be renumbered. Perhaps note in text that EPO AI Policy is available online.	The Office stated the following: 1) The term "parties" occurs several times in the General Part. One definition is given in section 3.4; this was considered sufficient. 2) The content pages will be edited before publication of the Guidelines 2026. 3) See comment 22. There were no further comments from SACEPO WP/G members.
24	**GP**		6.1	Item 5: add A1 and A2/A3 codes, as those are relevant for users	Amend to: "The application and the search report are published by the EPO either together **(A1)** or separately **(A2 followed by A3)."**	The Office agreed to the suggestion.
25	**GP**		6.1	Paragraph 6 is unclear and could be clarified, particularly as paragraph 7 deals with what is required for grant. On receipt of a request for examination from the applicant, or, if the request for	Amend to On receipt of a request for examination from the applicant (or, if the request for examination has been filed before the search report has been transmitted to the	The Office agreed to update the text, but with a slightly different wording, noting that the file proceeds to examination automatically if the applicant has fulfilled the corresponding requirements:

				examination has been filed before the search report has been transmitted to the applicant, on confirmation by the applicant that they desire to proceed further with the European patent application, the application is subjected to substantive examination and any necessary formal examination before a European patent is granted by the examining division.	applicant, on confirmation by the applicant that they desire to proceed further with the European patent application) the examining division subjects the application to substantive examination and any necessary formal examination required for grant of a European patent.	" … the application proceeds to substantive examination". There were no further comments from SACEPO WP/G members.
26	**GP**		6.1	Paragraph 10 would read better as two sentences.	Amend to "*Within nine months from publication, any person may give notice of opposition to the European patent granted. After examining the opposition, the opposition division decides whether to reject the opposition, maintain the patent in amended form or revoke the patent*".	The Office agreed to the suggestion.
27	**GP**		6.1	Item 8 lacks legally relevant event: publication of the mention of the grant in the European Patent Bulletin. Add B1 code, as that is relevant for users.	Amend to: "The specification of the European patent is published by the EPO **(B1 publication) and, on the same day, the mention of the grant is published in the European Patent Bulletin.**"	The Office agreed to the suggestion.
28	**GP**		6.1	Item 9 unclear.	Amend to: "The patent proprietor may file a request for unitary effect until one month after the date of publication of the mention of the grant in the European Patent Bulletin, provided the requirements thereto are met."	The Office agreed to the suggestion.
29	**GP**		6.1		Add an item between 9 and 10 concerning validation in member states.	The Office hesitated to follow the proposal for the following reasons: - The section starts as follows: "The processing of Euro-direct and Euro-PCT applications, including the grant of a European patent for any such application, is carried out in a number of distinct procedural steps which are summarised below." – It follows that this section aims at highlighting the key procedural steps

						taken by the competent departments of the EPO during the patent grant process. If a notice of opposition is filed, the EPO starts to act again in post-grant proceedings. – Validation in the member states takes place after grant, and is not a procedure before the EPO but before the respective national Offices. – Since validation in the member states is not a procedure before the EPO, there is no practice to be applied by formalities officers or examiners. Members stated that other post-grant procedures, like opposition, are also mentioned in this section. Although the EPO had a different role in these post-grant proceedings, it would be helpful for users to have information about post-grant validation in the member states. The Office stated that it will look into the matter.
30	**GP**		6.1	Item 10 incorrect, it is note the date of an undefined "publication" (could be A1, A2, A3, B1, publication of any of those in the Bulletin, ...) – should be "the date of publication of the mention of the grant in the European Patent Bulletin" (the B1 publication "happens to be" on the same date, but is not the legally relevant event).	Amend to: "Within nine months from **the date of publication of the mention of the grant in the European Patent Bulletin (and the B1** publication**)**, any person may give notice of opposition to the European patent granted; after examining the opposition, the opposition division decides whether to reject the opposition, maintain the patent in amended form or revoke the patent."	The Office agreed to the suggestion; see also comment 27 (although in principle it was clear what is meant from the context).
31	**GP**		6.1	Item 12: add B2/B3 codes, as those are relevant for users.	Amend to: "the European patent is amended, the EPO publishes a new specification of the European patent amended accordingly **(B2**	The Office agreed to the suggestion, although this list was never intended to be very detailed.

					after opposition or B3-n after limitation).”	
32	**GP**		6.2		Proposal: title of General part 3.2 given here (“Euro-PCT application – entry into the European phase”) is inconsistent.	The Office could not see any inconsistency. There were no further comments from SACEPO WP/G members.
33	**GP**		6.2	International publication is missing (A1 or A2), while publication is in the corresponding list for Direct-EP in 6.1. Inconsistent.	Add after 2: “The international application and the international search report are published by the International Bureau of WIP either together **(A1)** or separately **(A2 followed by A3).”**	The Office agreed to the suggestion, although it is the that IB publishes the international application and not the EPO; the list focuses on the EPO as PCT Authority (see header of section 6), but publication by the IB can be mentioned, to show the parallelism with Euro-direct applications. There were no further comments from SACEPO WP/G members.
34	**GP**		6.2	“Upon expiry of the time limit for filing amendments under Rule 161, where applicable, the search division draws up a supplementary European search report (ESSR” is incorrect. It does not happen UPON expiry, but AFTER. Also, clarify it only related to 161(2) (when EPO was not ISA/SISA) and not to 161(1) by adding the par number to the existing reference to Rule 161.	Amend: “~~Upon~~ **After** expiry of the time limit for filing amendments under Rule 161**(2),** where applicable, the search division draws up a supplementary European search report (ESSR)”.	The Office agreed to the following amendment: "*After expiry of the time limit for filing amendments under Rule 161(2), the search division draws up the supplementary European search report*. There were no further comments from SACEPO WP/G members.
35	**GP**		6.2	Paragraph 4 “still” is redundant.	Delete “still”	The Office agreed to the suggestion.
36	**GP**		6.2	Paragraph 8 omits the possibility that the applicant waives the rule 161 period Clarification is necessary	Refer to section A-XIV 4 (which language has not been seen) Where applicable (and upon expiry of the time limit for filing amendments under Rule 161 or sooner if the Rule 161 period has been waived – see A-XIV, 4), the search division draws up a supplementary European search report (ESSR).	The Office disagreed – this section is not intended to go into detail. Detailed information on the waiver option is given in A-XII, 7.2. There were no further comments from SACEPO WP/G members.

				Comment	Suggestion	Consultation results
37	**Part A**	I	1(vi)	(vi) the requirements and procedures to be followed in the proceedings before the EPO as designated/elected Office on entry into the European phase ("Euro-PCT applications") (see A-XII to A-XV).	Correct (vi) to: the requirements and procedures to be followed in the proceedings before the EPO as designated/elected Office on **and after** entry into the European phase ("Euro-PCT applications") (see A-XII to A-XV).	The Office stated that it will clarify the suggestion with Language Services.
38	**Part A**	II	1.1.1	As the international phase of PCT applications are not in scope of these Guidelines, the reference thereto was removed from 1.1.1. However, as a PCT application is equivalent to a direct-EP application, it is appropriate and user-friendly to not just delete such reference, but to refer to the appropriate PCT-EPO GL for them.	Please insert at the end of A-II, 1.1.1 (or the end of A-II, 1): "For filing of international (PCT) applications, please refer to the PCT-EPO Guidelines A-II."	The Office agreed to add the suggested sentence at the end of A-II.1.
39	**Part A**	II	1.7		Add "(see OJ EPO 2001, 465)" after the 4th sentence of the 2nd paragraph, to indicate where the correspondence of place and numbering may be found.	The Office stated that the OJ notice referred to is already mentioned in the first paragraph of this section: "The patent application numbering system currently in use was introduced in 2002 (see OJ EPO 2001, 465)." There were no further comments from SACEPO WP/G members.
40	**Part A**	II	1.7	2nd paragraph last sentence reads "The last (nineth) digit is a check digit."	Correct "nineth" to "ninth".	The Office thanked the user for the comment. Language Services have already corrected the error.
41	**Part A**	II	6.5	New paragraph: If the correct application documents or parts do not satisfy the physical requirements of Rule 49(2) in conjunction with the decision of the President of the EPO dated xx July 2025 (OJ EPO 2025, Axx), the EPO will not invite the applicant	Amend to: If the correct application documents or parts do not satisfy the physical requirements of Rule 49(2) in conjunction with the decision of the President of the EPO dated xx July 2025 (OJ EPO 2025, Axx), the EPO will invite the applicant to	The Office agreed to the suggestion.

				to correct this deficiency according to Rule 58 until the one-month period for withdrawing them has expired without the applicant having withdrawn them (see A-III, 3.2.2).	correct this deficiency according to Rule 58 after the one-month period for withdrawing them has expired unless the applicant has withdrawn the documents (see A-III, 3.2.2).	
42	**A**	III	4.1	Appears to be incorrect. Proposal: OLF 2.0 is web-based, so is not "downloaded from the EPO website".		The Office agreed to add "in PDF" after "downloaded" for reasons of clarity. The sentence will then read as follows: "The latest version of EPO Form 1001 can be accessed in Online Filing 2.0 or downloaded **in PDF** from the EPO website (*epo.org*) (see AII, 1.1.1)." There were no further comments from SACEPO WP/G members.
43	**Part A**	III	6.7.3	a) 6.7.3 is not included in the index b) it is not clear when a priority document cannot be included in the file. Does this happen only under the circumstances that are mentioned in the OJ reference?	a) Add 6.7.3 to the index b) clarify when a priority document cannot be included in the file or move the reference to the OJ after the 1st sentence.	Re. a) The Office stated that the index/content page will be edited before publication of the Guidelines 2026. Re. b) The Office stated that this section sufficiently outlines practice and reflects the information available in OJ publications. The exact reason why a priority document cannot be retrieved via DAS is often unclear because it is not communicated in the file (this was already the case under the former PDX agreement). Listing hypothetical reasons, e.g. restrictions due to national law, is not considered helpful. There were no further comments from SACEPO WP/G members.
44	**Part A**	III	7.1	Good clarification		The Office thanked the user for the positive comment.
45	**Part A**	III	9	The fee exemption relates to the first 15 claims of the first set of claims filed meaning a re-selection of the claims	The fee exemption relates to the first 15 claims of the first set of claims filed meaning a re-selection of the	The Office agreed to the suggestion.

				payable is not allowed within these first 15 claims. If applicants wish to reduce the number of claims to be paid, they must make their selection in respect of claims numbered 16 and above.	claims **for which fees are payable** is not allowed within these first 15 claims. to reduce the number of claims **fees** to be paid, they must make their selection in respect of claims numbered 16 and above.	
46	**A**	III	9		Proposal: State "If applicants wish to reduce the number of claims fees to be paid, they must make their selection in respect of claims numbered 16 and above."?	See comment above
47	**Part A**	III	12.1	Will Costa Rica be in force by end of the year?		The Office stated that the Guidelines 2026 will be updated with information regarding new validation states, if any.
48	**Part A**	III	13.2	Still has section on *Euro-PCT applications.*	The section on *Euro-PCT applications* shall be moved to A-XII-A-XV.	The Office stated that adaptations within Part A are still in progress.
49	**Part A**	VII	7		Please add "However" to prevent a possible perceived inconsistency with the previous sentence: "**However,** correction of the translation during opposition proceedings will not be allowed if the corrections contravene Art. 123(3), i.e. if they imply an amendment of the claims that extends the protection conferred."	The Office agreed to the suggestion
50	**Part A**	VII	7	New text comprises: "In examination proceedings, a correction to bring the translation into conformity with the original text must comply with the requirements of Art. 123(2)." This wording is inaccurate: also bringing into conformity BEFORE examination has started needs to satisfy 123(2); as well as in post-grant proceedings. Similar for "If the correction of the translation does not comply with the requirements under Art. 123(2), or if the examining division has reasonable doubts as to	Amend to "In ~~examination~~ **pre-grant as well as post-grant** proceedings, a correction to bring the translation into conformity with the original text must comply with the requirements of Art. 123(2)." and "If the correction of the translation does not comply with the requirements under Art. 123(2), or if the examining division **or opposition division** has reasonable doubts as to the translation's accuracy, it will invite the applicant to clarify any	The Office agreed to the proposal, but will rephrase as follows: "In ~~examination~~ **pre-grant as well as post-grant** proceedings, a correction to bring the translation into conformity with the original text must comply with the requirements of Art. 123(2)." and "If the correction of the translation does not comply with the requirements under Art. 123(2), or if the examining division **or opposition division** (see D-V.2.2) has reasonable doubts as to

				the translation's accuracy, it will invite the applicant to clarify any discrepancies.".	discrepancies.".	the translation's accuracy, it will invite the applicant **or proprietor** to ~~clarify any Discrepancies~~ **comment**.". There were no further comments from SACEPO WP/G members.
51	**Part A**	VII	7	"In examination proceedings, a correction to bring the translation into conformity with the original text must comply with the requirements of Art.123(2)." If the correction brings the translation in conformity with the original text, it complies with Art. 123(2).	Amend as below: "In examination proceedings, **as with any other correction,** a correction to bring the translation into conformity with the original text must comply with the requirements of Art.123(2)."	The Office agreed to the suggestion. In line with comment 50, it will be modified to "pre-grant as well as post-grant proceedings". There were no further comments from SACEPO WP/G members. .
52	**Part A**	VIII	1.3	It has been announced that a separate (from that of professional representatives) searchable database of legal practitioners will be kept and available on the EPO website.	Amend: "Legal practitioners entitled to act as representatives before the EPO are not entered on the list of professional representatives (see J 18/99). However, a separate list of legal practitioners entitled to act as representatives before the EPO is kept for this purpose by the EPO and is published as a separate searchable database on the EPO website (see the decision of the President dated 7th July 2025, OJ 2025, A45)".	The Office stated that the searchable database for legal practitioners is not currently implemented. The proposal cannot therefore not be put into practice. Members asked for information on several decisions and notices published in the July Official Journal to be added to the Guidelines, clarifying that their request actually referred to the EPO's internal list of legal practitioners. There is an expectation that this list will soon be available online. The Office confirmed that this list exists and the intention is to publish it as a searchable database on epo.org. Since this is still work in progress, it is too early to add such information to the Guidelines. On request from a member to add to the Guidelines the information that the EPO holds an internal list of recorded legal practitioners, the Office confirmed that this

						information is already contained in Part A-VIII, 1.3. There were no further comments from SACEPO WP/G members.
53	**Part A**	VIII	1.4	Has it not also been announced that a separate (from that of professional representatives and from that of legal practitioners) searchable database of associations will be kept and available on the EPO website?	Add information reflecting this.	See comment 52.
54	**Part A**	X	4.2.1	The section was amended to comprise: "The ADA were last published in full as Supplementary publication 2, OJ EPO 2024 (and were subsequently by decision of the President dated 25 September 2024, OJ EPO 2024, A81, and by decision of the President dated 12 February 2025, OJ EPO 2025, A17)."	It is requested to publish a consolidated ADA and AAD on the EPO legal text section of the website (Legal texts | epo.org = https://www.epo.org/en/legal) or the EPC section which also has a consolidated version of RFees (The European Patent Convention – Contents = https://www.epo.org/en/legal/epc/2020/index.html).	The Office stated that this comment does not relate to the Guidelines. Consolidated ADA are, however, in preparation. There were no further comments from SACEPO WP/G members.
55	**Part A**	X	5.2.4	EPO did not agree to delete "payable to the EPO" from the title of Example 1, although the fee is refunded. The title is misleading		The Office believed the title reflects the example – the last renewal fee payable is the one in the third row. The remaining rows show the calculation of the next renewal fee, which is no longer payable to the EPO; this is clearly indicated. So the third renewal fee is the last fee payable to the EPO, as reflected in the title. There were no further comments from SACEPO WP/G members.
56	**Part A**	X	9.3.1	Reference to the details of calculation of SME/Micro entity size broader than the rule states. The notice of OJ EPO 2024, A8 specifically referred **only** to Article 2. Following text brings in specific text on calculation of headcount with reference to	Amend the Guideline to comply with the Rule and Notice – or issue a fresh notice – don't make it up as you go along.	The Office did not agree with the comment. For a definition of small and micro enterprises, OJ EPO 2024, A8 makes reference to the definition contained in Article 2 of Commission Recommendation 2003/361/EC of 6 May 2003. Article 2 defines the staff headcount threshold and

				related entities – a matter that is discussed nowhere in the Rules, nor on the papers leading up to the decision on the Rules. Indeed, during the legislative process epi commented on deletion of definitions from the rules, and the paper concerned (CA/63/23) indicated that definitions would be provided by Notice from the EPO. The current Notice has no reference to calculation based on related entities. This Guidance replaces rule of law with administrative fiat.		financial ceilings for eligible entities. However, it goes without saying that these criteria necessarily require further qualification; for example, which types of employees are taken into account for the staff headcount or which data are used to determine the financial thresholds. All of these qualifications are likewise included in Commission Recommendation 2003/361/EC of 6 May 2003. According to Article 3 of the Commission Recommendation, which further specifies the types of enterprise to be taken into consideration in calculating staff numbers and financial amounts in Article 2, specifies that under specific circumstances related enterprises may be taken into account for these purposes. The Office is of the opinion that a separate mention of Articles 3 to 6 of the Commission Recommendation in OJ EPO 2024, A8 is not required in order for the EPO to apply them. The application of these provisions necessarily follows from the use of the definition contained in Article 2 of the Commission Recommendation. There were no further comments from SACEPO WP/G members.

	A	XII-XV		Comment	Suggestion	Consultation results
57				We appreciate having this chapters of part A already in July 2025. However, we find that it is not fully writing into a useful guidelines format, which is outlined in our comments below.		The Office pointed out that the new Chapters in Part A are first drafted with a view to the needs of formalities officers. At present, E-IX gives an overview of the proceedings in the European phase, whereas Parts B and C focus on examiners and deal with the specific Euro-PCT aspects in search and examination. That structure will be maintained. E-IX has been split into four chapters, with more subtitles for better readability, especially in the HTML version. In view of the needs of formalities officers, and with reference to the remark on Part E-IX not being as helpful as the Euro-PCT Guide, additional information has been implemented from other parts of the Guidelines and the Euro-PCT Guide. There were no further comments from SACEPO WP/G members.
58	**Part A**	XII-XV		Moved from E-IX but no clean copy shown for review. Can we assume there are no substantive changes?	Next time provide an annotated copy.	The Office confirmed that the new structure had been adopted to consolidate and enhance the Guidelines regarding Euro-PCT applications; this does not imply any change of practice by the Office. There were no further comments from SACEPO WP/G members.
59	**Part A**	XII-XV		In the current summer draft, most paragraph start with legal references (Art, Rule from PCT and EPC). It is assumed that these references will be shown in the margins, as in the other GL sections, in the final version.	Please confirm	The Office confirmed that the references currently shown at the beginning of each paragraph of A-XII – A-XV will be shown in the margins in the final version in the same manner as in any other part of the Guidelines. There were no further comments from SACEPO WP/G members.

60	**Part A**	XII-XV		References to PCT Articles and Rules are indicated in this drafts as Art. 11 PCT - with “PCT” following the article/rule number-, but the correct format for PCT citations is PCT Art. 11 -with “PCT” preceding the article/rule number-	Please correct throughout	The Office stated that at present in E-IX (as in all other parts of the Guidelines) both in the text and in the margins PCT articles are referred to as e.g. "Art. 11 PCT", not as "PCT Art. 11". The proposal does not align with the present standard of the EPO. Therefore the Office does not intend any change to its practice. There were no further comments from SACEPO WP/G members.
61	**Part A**	XII-XV		These chapters use the terms “EP-Direct” (e.g, in A-XII, 1.2, 3rd par) as well as “Euro-Direct” (e.g., in A-XII, 1 and A-XII, 1.2, bottom paragraph on 3rd page of the pdf).	Consistently use the term “EP-Direct”	See also response to comment 11. The Office disagreed, noting that the use of both terms is explicitly addressed in A-XII, 1.2. This now reads (in slightly amended form): "In EPO publications, the terms "Euro-direct" and "EP-direct" application are both used to refer to an application filed under the EPC. The term "Euro-PCT application" refers both to the character of the application as one filed under the PCT and to the fact that the EPO is a designated/elected Office for that application (A-I, 2; General Part, 3)." The Office stated that the term "EP-direct" is at present used in the Guidelines only once, in A-III, 13.2 (heading). This will be updated there to read "Euro-direct" if the heading is still required (the Euro-PCT information will be moved to Part A-XII). The term "Euro-direct" is used four times (in A-II, 4.1.3.1; Part C-II, 3.3; E-VI, 6; and E-VIII, 1.6.2.1). In other publications the Office tends to use the term Euro-direct more frequently, as was the case earlier. A search on the EPO website resulted in 406 results for the term "Euro-direct" versus 501

						for the term "EP-direct" in the last 12 months. There were no further comments from SACEPO WP/G members.
62	**Part A**	XII		Chapter XII deviates in style from all other chapters in the Guidelines: it is rather a text-book-like tutorial about the background and legal framework of the European phase, than true Guidelines. Although such explanation is much appreciated for educative purposes (and would fit in, e.g., the PCT Applicant's Guide or the former Euro-PCT Guide as well as in an EQE training), it may be reconsidered whether this form is appropriate for the Guidelines. Also, many explanations often start with the general PCT or EPC framework, describing the applicable provisions in great detail, while only a specific situation (often a deviation from the main rule) applies for EP entry. On some cases, even irrelevant general principles are described first, which are then subsequently overruled by exceptions in the PCT or the EPC (e.g., i) indicating that the applicant has to designate the EPO, while that is formally a legal requirement but that requirement is always satisfied when the request is filed, as is provided in the PCT itself!; ii) first describing that the PCT provides a 30m term for national entry, before informing the reader that the EPC provides mote time, i.e. 31m: immediately describing that the time limit for EP entry is 31m would been adequate and more appropriate, as it prevents	An extensive review for obtaining a more concise wording of A-XII is requested.	See also response to comment 57. The Office noted that many users have asked for the Guidelines to be clarified so they better fit the needs of all different sorts of users. The comment that A-XII is much appreciated, followed by the comment that A-XII rather fits in the Euro-PCT Guide or the PCT Applicant's Guide is not fully understandable, since: 1) the Euro-PCT Guide has been abolished; 2) the PCT Applicant's Guide is not a publication on the national phase processing, and it is not published by the EPO. With regard to the two examples on "automatic designation" and "the 30-month time limit" the Office states as follows: Form RO/101 is not required to obtain a filing date under Art .11 PCT,. A designation of EP (even for a single state) will result in an effective application that may enter into the European phase. Thus Art. 11(3) PCT will apply without "automatic designation". It is further noted that the principle of designation in the introduction (A-XII, 2) directly refers to the details in 2.1 and 2.1.1 on "automatic designation". The Office also disagrees with the second example. In the same sentence that refers to the 30-month time limit, there is also a reference to the application of 31 months as

				possible misunderstanding). It is advised to immediately come to the point in these cases.		the relevant period for the EPO in a slightly revised section A-XII, 3.1 – Processing ban – lifting the ban: "This ban, laid down in Art. 23(1) PCT and Art. 40(1) PCT, guarantees that applicants have a period of at least 30 months from the filing date or the earliest priority date to decide whether and before which offices they wish to enter the national/regional phase. The priority date is defined in Art 2(xi) PCT. The EPO has extended the guaranteed period for entry into the European phase from 30 to 31 months from the filing date or the earliest priority date, as is laid down in Rule 159(1) (A-XII, 3.2)". Also, in A-XII, 3.2 "Start of the European phase processing – the 31-month period under Rule 159(1)" - the extension is stressed. There were no further comments from SACEPO WP/G members.
63	**Part A**	XII	1	This section says: “These chapters focus on **formalities examination** of Euro-PCT applications in the European phase in so far it differs from the law and practice applicable to Euro-direct applications. Where the same practice applies to Euro-direct and Euro-PCT applications in the European phase reference is made to the instructions in the earlier chapters of Part A. Other parts of the guidelines provide specific instructions for Euro-PCT applications in the European phase to the extent needed in the context of - for instance - search (Part B) or examination (Part C).”	Please move the sections that are not relating to formalities examination (the topic of Part A) to the respective parts, e.g., move A-XIV, 5 into Part B and A-XIV, 6 into Part C.	The Office disagreed and referred to its response comments 57 and 62. In A-XII – AXV the Office has maintained the structure of E-IX, presenting a general overview serving all users (formalities officers, examiners, applicants etc.). To that structure it has added further formal aspects (from the current Part A), information that was previously in the Euro-PCT Guide as part of the overview the Office considers useful for applicants, and more explanations on the PCT system. Accordingly, the information in A-XIV, 5 (E-IX, 3) and even more A-XIV, 6 (E-IX, 4) is largely taken over from present E-IX in its entirety. These paragraphs provide an

				However, many sections of A-XII-XV do NOT relate to formalities, e.g., most of Chapter XIV, in particular “5. Supplementary European search” “6. Substantive examination of a Euro-PCT application”		overview of the specific aspects of the Euro-PCT procedure. Further, some information from the Euro-PCT Guide has been taken over in A-XIV (Rule 164 info). Further details are to be found for search examiners in Part B and for the exam division in Part C. There were no further comments from SACEPO WP/G members.
64	**Part A**	XII	1.1	The wording “Rule159(1)(a) in combination with Art. 22 and Art. 39 PCT” (first part on 3rd page) is incorrect: the “and” shall be an “or”, as it is either the one or the other article that applies when entering EP.	Amend to: “Rule159(1)(a) in combination with Art. 22 **or** Art. 39 PCT”	The Office agreed to the suggestion.
65	**Part A**	XII	1.2	The first paragraph of this section incorrectly suggests that an applicant must actively/explicitly/expressly designate the EPO.	Add: “The designation of the EPO is automatically done when filing the request form, PCT/RO/101, which automatically designates all PCT contracting states for national and regional patents (PCT-EPO Guidelines 4.1; PCT Applicant’s Guide – IP 5.052; PCT Rule 4.9(a)(i) and (iii))”	The Office did not agree with the comment, pointing out that the general introduction in A-XII, 1.2 cannot and should not contain all details. It therefore refers to subsections. However the Office will rephrase the first paragraph for the sake of clarity, for instance as follows: "Proceedings for the grant of a European patent before the EPO, which is a "regional patent" in the terms of the PCT (Art. 2 PCT), may only start on condition that the EPO as designated/elected Office has become competent to process the application. The basic requirement for the competence of any national/regional office (here, the EPO) is that the applicant has designated it (Art. 11(1) PCT) (A-XII, 2). That is why the PCT uses the term "designated Office" to refer to the national/regional offices in their capacity as granting authority for national/regional patents (A-XII, 2.1). The term "elected

						Office" is used where a designated Office has been elected in a demand for international preliminary examination (A-XII, 2.2). The designation of the EPO is implied in the PCT Request (Rule 4.9(a)(i) and (ii) PCT) and its election is implied in the Demand (Rule 53.7 PCT) as further set out in A-XII, 2.1 and A-XII, 2.2." There were no further comments from SACEPO WP/G members.
66	**Part A**	XII	1.4	The term "choice" in "the choice of the receiving Office and ISA and IPEA" suggests that there is always a choice, but there is often not. Also add SISA.	Amend to: "the choice**, where possible,** of the receiving Office and ISA and**, possibly, SISA and** IPEA". or "**the offices that were used as** ~~choice of the~~ receiving Office and ISA and**, possibly, SISA and/or** IPEA".	The Office will consider clarifying the first paragraph, for instance as follows: "Various aspects of the processing in the international phase are important for establishing the applicable procedure in the European phase. In particular, the requirements to be complied with for valid entry into the European phase vary depending on "the state of the file" at the time of entry (A-XII, 4.2, General Part, 5). The "state of the file" results from the "characteristics" of both the application (e.g. the language of filing and publication) and the processing in the international phase; e.g. the receiving Office, (S)ISA and IPEA that acted in the international phase. An important factor of the "state of the file" is whether the EPO acted as (S)ISA in the international phase. It is only then that no supplementary European search has to be performed and no search fee under Rule 159(1)(c) is due (A-XIII, 6). The question whether the EPO acted as (S)ISA is also relevant under Rule 161 as regards the filing of amendments in the European phase (A-XIV, 2) and under Rule 164 where the EPO acting as designated/elected Office finds a lack of unity (A-XIV, 5.1)."

						There were no further comments from SACEPO WP/G members.
67	**Part A**	XII	2	The first paragraph of this section incorrectly suggests that the EPO could not have been designated. See comment above to A-XII, 1.2. However, it could be that the designation as withdrawn by the time of entry,	Replace: "~~This requires that the applicant of the international application "designated" the EPO in their PCT request at the time of filing~~." By "**This requires that the applicant of the international application has not withdrawn the designation of the EPO at that time (se 2.1)."** Also: Amend**:** "Thus, the EPO will act in the European phase as a "designated Office" on condition that ~~it was designated~~ **its designation has not been withdrawn** (A-XII, 2.1). If the EPO was ~~designated in the PCT Request and, thereafter,~~ elected in the demand for international preliminary examination, it will act as an "elected Office" in the European phase (A-XII, 2.2), **unless the designation or the election has been withdrawn at the moment of entry (see 2.1).**"	The Office stated that A-XII, 2 is an introduction with references to details about each sentence. Therefore it is by definition incomplete, and should be so to avoid repetition. As to the two suggestions the Office believes it follows directly from the first sentence of A-XII, 2 that a designation may no longer exist, as further set out directly thereafter in 2.1 in detail and in 2.2 for the EPO as elected Office. The proposal erroneously suggests that only withdrawal of the designation can cause loss of the EPO as designated/elected Office. For the sake of clarity, the Office will consider rephrasing the first paragraph of A-XII, 2, for instance as follows: "The EPO can process the application with a view to granting a European patent only if it is (still) a designated/elected Office at the time the applicant takes the steps necessary to enter the European phase. This requires that the applicant "designated" the EPO at the time of filing the international application, which is implied by submitting the PCT Request. Moreover, this requires that the designation was not "lost" thereafter, as set out in A-XII, 2.1.1. That is why the PCT uses the term "designated Office" to refer to the national/regional offices in their role as granting authority…." There were no further comments from SACEPO WP/G members.

68	**Part A**	XII	2.1		Add the third paragraph immediately after the first paragraph.	The Office agreed to the suggestion.
69	**Part A**	XII	2.1	The first sentence of the second paragraph is incorrect ("PCT applicants must not designate the PCT contracting states for which they wish to file the PCT application"), as there is no such possibility (except for the few states with a self-designation problem – see e).	Replace "~~must not designate~~" by "**can not at their choice designate**".	See also comment 62. The Office did not agree with the comment. According to Art. 11(1) PCT, the applicant must designate at least one state to obtain a filing date. The PCT Request is not a filing date request but a requirement under Art. 14 PCT. Therefore the suggestion is not in line with the PCT. Moreover, if on the filing date a PCT Request has been filed and a declaration of non-designation or withdrawal of any designation submitted there appears no reason not to recognise it. However, the Office agrees to clarify the text of the first par. in 2.1, for instance as follows: "The proceedings for the grant of a national/regional patent before a national/regional office can only start if the applicant designated that national/regional office at the time of filing the international application. PCT applicants do not have to designate the PCT contracting states for which they wish to file the international application, because both national and, where possible, regional designations of all PCT contracting states are implied in the PCT request ("automatic designation") (Rule 4.9(a)(i) and (iii) PCT)." There were no further comments from SACEPO WP/G members.
70	**Part A**	XII	3		Replace "Art. 22(1) ~~and~~ Art. 39(1)(a)" by "Art. 22(1)*/* Art. 39(1)(a)"	The Office thanked the user for the comment. Language Services will look into the matter.

71	**Part A**	XII	3	The term *processing ban* is introduced here first, so shall be it between quotes here, rather than having it in between quotes in 3.1 as if it were first introduced there.	Amend: "This requires that the so-called **"**processing**"** ban is lifted"	The Office thanked the user for the comment. Language Services will consider the matter.
72	**Part A**	XII	3.2	Incomplete w.r.t. which time limit Rules apply.	Amend: "**Rules 131, 133, 134): Rules 131, 133, 134(1),(2),(4),(5) are** applicable to the 31-month period for entry into the European phase under Rule 159(1) (E-VIII, 1.6.2.3).	The Office will take up the suggestion to refer to other relevant rules by addition or reference. Rule 134(4) does not appear relevant, since it does not contain any extension. There were no further comments from SACEPO WP/G members.
73	**Part A**	XII	4	"Rule 159(1) may not always be noted and/or notified in due time and - more in particular - not before expiry of the one-month time limit for requesting re-establishment of rights in the procedure before the EPO as designated/elected Office (A-XV, 3)." Thid last paragraph sees an isolated statement of which the relevance/ consequences for the applicant and for the EPO are not described. How does this effect formalities examination?		The Office stated that in the example the attention of formalities officers is drawn to the importance of checking the application asap, including checking the formal validity of the priority claim. At the same time it makes clear that applicants have the primary responsibility of ensuring they act in accordance with the provisions of the PCT and the EPC (here Rule 49ter.2 PCT, Art 122 and Rule 136 EPC, as extensively interpreted by the case law of the Boards of Appeal). The EPO as designated/elected Office will inform the applicant in cases where it detects an error or other deficiency. However, applicants cannot rely on the EPO detecting every deficiency. The Office will consider clarifying the text, for instance as follows: "Moreover, it may happen that a deficiency is detected and/or notified only after expiry of the time limit for invoking a certain remedy (A-XV, 1). For example, a request for restoration of priority in the procedure before the EPO as designated/elected

						Office in accordance with Rule 49ter.2 PCT must be made within one month of the effective date of (early) entry into the European phase or, if the application is deemed withdrawn, because one of the applicable minimum requirements was not met, together with a request for further processing or for re-establishment of rights in relation to the time limit for requesting further processing (A-XV, 5). However, the EPO may not have established and notified a deficiency in time for the applicant to remedy it within the applicable time limit., neither can applicants invoke omission of such notification. Ultimate responsibility for requesting a legal remedy within the applicable time limit lies with the applicant." There were no further comments from SACEPO WP/G members.
74	**Part A**	XII	4.1	This section seems to be almost fully directed to applicants rather than to the EPO staff. Having this information is appreciated, but it would rather be expected that a direct link to the formalities examination is made.		The Office stated that it considers this information useful. Formalities officers use the Guidelines to reply to questions (and until 2024 they also used the Euro-PCT Applicants Guide); so too, for example, do staff working in EPO Procedural and Technical Support. The Office notes that many users felt the Guidelines should provide more information intended for users, as the Euro-PCT Guide did before. Most of the information in Section A-XII, 4.1 was provided in the Euro-PCT Guide 2023, Section 5.1.6: How and where should the applicant initiate the procedure before the EPO as a designated/elected Office (Form 1200)?

						There were no further comments from SACEPO WP/G members.
75	**Part A**	XII	4.2	The “and” seems incorrect, and needs to be an “or”.	Amend to: “Art. 24(1)(iii) PCT and Art. 39(2) PCT, Rule 160: If upon expiry of the 31-month period the EPO has not received any indication that the applicant wishes to start the European grant proceedings, ~~and~~ **or** not all applicable minimum requirements for entry into the European phase are complied with, the application is deemed withdrawn.”	The Office agreed to the suggestion.
76	**Part A**	XII	4.3	Although the wording is legally correct, amend to prevent possible misunderstanding as to whether the international publication by the IB or the publication by the EPO is referred to.	Amend to: “supply the translation, if the Euro-PCT application was not published **by the IB (international publication)** in one of the EPO's official languages pursuant to Rule 159(1)(a) (A-XIII, 3), ”	The Office agreed to the suggestion.
77	**Part A**	XII	4.3	“pay the renewal fee for the third year pursuant to Rule 159(1)(g): if the period under Rule 51(1) has expired earlier. If the due date is missed the applicant may still pay the renewal fee with additional fee under Rule 51(2) (A-XIII, 8).” However, the payment of the additional fee is not a minimum requirement: entry also takes place if no renewal fee was paid at the due date=31 date, and the loss-of-right due to non-payment of the additional fee takes effect only at the end of the 6m period, under Art.86(1) and Rule 51(2) (**not** under Rule 160). During those 6m, the application is pending before the EPO in the regional phase (so that payments of other fees may become due and legal acts may be validly performed; also, a divisional application can be validly filed). They shall thus be handled in 4.4 (which defines the further	Review renewal fees as minimum requirement in view of Rul1 160(1) and Rule 51(2).	The Office did not agree to this suggestion. The requirement does not block the start of the European phase, and is therefore not a minimum requirement in the strict sense of the word. This is made very clear in paragraph 4.3, in the list of minimum requirements, and two paragraphs further on. The text here could be further clarified, for instance as follows: "If an applicable minimum requirement is not complied with, the application is deemed withdrawn under Rule 160 (A-XIII, 3-8). However, non-payment of the renewal fee due at the expiry of the 31-month period does not result immediately in a deemed withdrawal of the application, but only if the renewal fee due is not paid in accordance with Rule 51(2) within the six-month time limit. (Art. 86(1)) (A-XIII, 8; A-X, 5.2.4)." The reasons for including payment of the renewal fee in the list of minimum

				requirement two-fold as 1) “a further requirement is due upon entry into the European phase but if not complied with, the application will not be considered deemed withdrawn” and 2) “Hence, the further requirements do not block the start of the grant proceedings before the EPO as designated/elected Office.”) or in a dedicated section. Also “If one of the applicable minimum requirements is applicable but not complied with, the application is deemed withdrawn under Rule 160 (A-XIII 3-8).” Is incorrect w.r.t. renewal fees, as Rule 160(1) does not refer those.		requirements are two-fold: the requirement is important for all Euro-PCT applications, and non-payment within the additional six months (of the renewal fee plus the additional fee) results in loss of rights for which the only remedy is in Art. 122. Members correctly mentioned that clarity on the issue was relevant for the question of what is required to file a divisional application upon entry into the European phase. The Office will look into the matter.
78	**Part A**	XII	5.1	Amend first sentence to be as accurate as the second sentence, to unambiguously refer to the relevant publication.	Amend to: “The language of the proceedings may only be chosen by the applicant, if the international application was not published **in the international phase** in an official language of the EPO.” (but see also next comment)	The Office agreed to the suggestion.
79	**Part A**	XII	5.1	Note that the first sentence is not fully correct. In particular, if the international application was filed and published in Spanish by an applicant that can choose the Spanish Office as ISA (e.g, when filed with the Spanish Office as competent rO) and the EPO was IPEA, the translation filed with the EPO as IPEA becomes the language of proceedings in the EP phase and the applicant can NOT select it anymore – contrary to the first sentence.		The Office agreed to the suggestion and will clarify the wording to include the rare case mentioned, for instance by adding an extra sentence at the end of the first paragraph: "A change of language is also not possible if the applicant had to file with the EPO as IPEA a translation of the application in an official language of the EPO under Rule 55.2 (a) PCT; e.g. where the Spanish Office acted as ISA and the EPO as IPEA." There were no further comments from SACEPO WP/G members.

80	**Part A**	XII	5.4	The obligation to file copies of the search results of the priorities is often lifted as the EPO has/can get them.	Amend to: "Rule 141: The applicant ~~must~~ **may need to**, on entry into the European phase, file the results of any search carried out by or on behalf of the office of first filing for each application whose priority is claimed (A-XIII, 11.7, A-III, 6.12)." Or "Rule 141: **Unless available to the EPO (Rule 141(2),** the applicant must, on entry into the European phase, file the results of any search carried out by or on behalf of the office of first filing for each application whose priority is claimed (A-XIII, 11.7, A-III, 6.12)."	The Office agrees to the suggestion.
81	**Part A**	XII	6.2	The most likely act that an applicant may want to do if the 31m limit is missed for one ore more acts, is further processing w.r.t. various missed acts. So, a reference to FP would be most appropriate, and esp more than (just) a reference to RE. Also, as fee payments can be done by any person, it is useful to clarify that a further processing in respect of a missed fee (which would just require the payment of a missed fee together with the fee for further processing) does not benefit from that exception, as in this case the act is not a mere fee payment, but rather includes the legal act of filing the request for further processing (Rule 135(1): "Further processing under Article 121, paragraph 1, shall be requested by payment of the prescribed fee/...").	It is suggested to amend as clarification: "Applicants having neither a residence nor their principal place of business within the territory of one of the contracting states who do not themselves take the required steps for entry into the European phase within the 31-month period may, after expiry of that time limit, perform these and the other procedural steps (e.g. **filing a request for further processing (also if that would just require the payment of a missed fee together with the fee for further processing) or** filing a request for re-establishment of rights) only through a professional representative or legal practitioner entitled to practise before the EPO.".	The Office did not agree with the comment; no request in writing has been required since the EPC2000 entered into force. If the act omitted is simply payment of a fee, any person may fulfil that by paying the fee concerned plus the additional fee for further processing. The current sentence referring to both acts for entry into the European phase and the other procedural steps is therefore considered correct. The Office will consider adding an extra sentence to point out that in some cases the request for further processing also requires a representative. There were no further comments from SACEPO WP/G members.
82	**Part A**	XII	6.2.1	The EPC, nor the rest of the Guidelines, does not know the term "mandate a professional representative". Please include a definition, or replace by "wishes to be represented by".	"If any applicant ~~has mandated~~ **wishes (or needs) to be represented by** a professional representative to act on their behalf (also) in the European phase, the representative need**s** to be **identified**	The Office did not agree. The text was taken from the current Part E-IX 2.3.1: "If any applicant has mandated them to act on their behalf also in the European phase, the representatives need to identify

				Further, the sentence is not correct, as the applicant can also appoint (and authorise) the representative. So “the representative need to identify themselves accordingly” is incorrect.	**(“appointed”)** ~~identify~~ ~~themselves~~ accordingly to the EPO as designated/elected Office.”	themselves accordingly to the EPO as designated/elected Office". Paragraph 5.3.017 of the Euro-PCT Guide reads as follows: "In proceedings before the EPO as designated/elected Office, representatives identifying themselves as a professional representative entered on the list maintained by the EPO generally do not need to file an authorisation or (a reference to) a general authorisation. For their appointment to be valid, professional representatives merely need to inform the EPO that they have been appointed for the application concerned (see also point 2.11.001), e.g. by completing Section 2 of EPO Form 1200". The Office will consider clarifying the text, based for instance on the text in the Euro-PCT Guide. There were no further comments from SACEPO WP/G members.
83	**Part A**	XII	7.1	Already partially covered by 3.1.	Integrrated in a single section (possibly with subsections)	The Office disagree; it considers the slight overlap between the two sections helpful. Part A-XII, 3.1. only mentions "early processing" as a special case of lifting the processing ban, whereas Par A-XII, 7.1 is the specific source for all information on early processing. There were no further comments from SACEPO WP/G members.
84	**Part A**	XII	7.2	The 6 m period is not set in the communication, but in the Rules themselves, as indicate in the first sentence.	Amend the second sentence to: “... before expiry of the six-month period ~~set in the communication issued under Rules 161 and 162~~”.	The Office stated it was aware that the six-month time limit is stipulated in Rules 161 and 162. In any specific case, however, the period is defined as six months from the communication itself.

						Language Services will look into the matter. There were no further comments from SACEPO WP/G members.
85	**Part A**	XII	7.2		Amend to: “However, in order to expedite the European grant proceedings applicants may consider waiving their right to the communication pursuant to Rules 161 and 162 (OJ EPO 2011, 354**), or, after the communication has been issued, their right to the remainder of the six-month period.**”	The Office will take up the suggestion, for instance by adding a last sentence to the first paragraph: "Under the conditions set out in A-XII, 7.2.1 the remainder of the six-month period may be waived." The new section 7.2.1 would then, for instance, read: "Furthermore, if after the communication under Rule 161 and 162 is issued, the applicant wishes the EPO to start substantive examination or, if applicable, supplementary European search, a waiver of the rest of the six-month period will be accepted if the following conditions are met: • the applicant explicitly declares that they waive their right under Rule 161 EPC to file further amendments. • the applicant explicitly requests that the EPO start the proceedings as if the six-month period had expired. • the claims fees for the (last) set of claims on file have been paid." There were no further comments from SACEPO WP/G members.
86	**Part A**	XIII	2	This seems to be a repetition of A-XII, 4.3.	Consolidate.	The Office will consider the suggestion.
87	**Part A**	XIII	2	See comment above to XII-4.3, renewal fee: not a minimum requirement according to the definitions given in these sections of the GL.	Stop the first list after Rule 159(1)(f) and out the renewal fee separate by adding, before the last dash:	See also comment 77: The Office is prepared to clarify the issue more explicitly, for instance by adding:

					"**<u>The applicant must also perform the following act within the 31-month period</u>**: - pay the renewal fee for the third year if the period under Rule 51(1) has expired earlier pursuant to Rule 159(1)(g)."	"The applicant must also pay the renewal fee for the third year if the period under Rule 51(1) has expired earlier (Rule 159(1)(g)). As set out in A-XII, 2 non-compliance with this requirement does not block the start of the processing in the European phase since the application is not deemed withdrawn (A-XIII, 8) Therefore it is - strictly speaking – not a minimum requirement. It is, however, mentioned as "minimum requirement" given its importance for all Euro-PCT applications and the absence of the remedy of further processing if payment of the renewal fee plus the additional fee is not made in due time." There were no further comments from SACEPO WP/G members.
88	**Part A**	XIII	3	See comment to A-XII, 5 – Spanish Office = rO/ISA, EPO=IPEA.		See also comment 79: The Office agreed to the suggestion and will clarify the wording to include the rare case mentioned, for instance by adding an extra sentence at the end of the first paragraph: "A change of language is also not possible if the applicant had to file with the EPO as IPEA a translation of the application in an official language of the EPO under Rule 55.2 (a) PCT; e.g. where the Spanish Office acted as ISA and the EPO as IPEA." There were no further comments from SACEPO WP/G members.
89	**Part A**	XIII	3.1	This seems to be a repetition of A-XII, 5.1 and 5.2.	Consolidate.	The Office will consider the suggestion.
90	**Part A**	XIII	6		Add “The” at the beginning of the second paragraph.	The Office agreed with the suggestion.

91	**Part A**	XIII	6	How is the amount of the search fee determined in case of combinations of two or three of: - reduction after European ISA; - micro-entity scheme R.7a(3); and - Art. 9(2) RFees	To be included.	The Office will consider referring to these rare combinations.
92	**Part A**	XIII	8.1	Clarification.	Amend to: “but not paid within the 31-month period, it may still be paid within six months of the **(if applicable: deferred)** due date ("grace period"), provided it is paid with the additional fee, i.e. a 50% surcharge (Rule 51(2)) (A-X, 5.2.4).”	The Office disagreed. A-XIII, 8.1 only concerns cases where the renewal fee is due under Rule 159(1). Thus it always concerns the deferred due date. If the renewal fee becomes due after the date of entry, Rule 159 is not applicable – only Art 86 and Rule 51. However, the Office will consider adding the case where the renewal fee is due after expiry of the 31-month period. There were no further comments from SACEPO WP/G members.
93	**Part A**	XIII	9.1.3		Add (from former C-IV, 7.1): “Since August 2021, the EPO publishes these cases in section I.2(2) of the European Patent Bulletin under the heading "International applications considered as comprised in the state of the art under Rule 165 and Art. 54(3) EPC" (see A-XIII, 10).”	The Office stated that this information is available in A-XIII, 10. It will make a reference to that information in A-XIII, 9.1.3. There were no further comments from SACEPO WP/G members.
94	**Part A**	XIII	11	This seems to be a repetition of A-XII, 4.4.	Consolidate.	The Office will consider the suggestion.
95	**Part A**	XIV		There is some duplication in the various sections, e.g. the R.161 communication is discussed in parts in A-XII as well as in A-XIV.		The Office will consider the suggestion.
96	**Part A**	XIV	1	6th paragraph: The sentence “Therefore, if upon expiry of the six-month period set in the communication under Rules 161(1) and 162 the formalities officer finds that no formal requirement stands in the way, the	Amend to: “Therefore, if upon expiry of the six-month period set in the communication under Rules 161(1) and 162 the formalities officer **of the examining division** finds that no formal requirement stands in the way, the	The Office thanked the user for the suggestion and will clarify the point.

				file is forwarded to the examining division for substantive examination (A-XIV, 6).” Is not consistent with information in A-XII, which says that the examining division is immediately responsible: what seems to be meant is that the formalities officer of the examining division forwards the application to the examining division. Note that the R.161(1)/162 communication is issued by the Examining Division, which confirms that the file is already there.	file is forwarded to the **members of the** examining division for substantive examination (A-XIV, 6).” Or “Therefore, if upon expiry of the six-month period set in the communication under Rules 161(1) and 162 the formalities officer **of the examining division** finds that no formal requirement stands in the way, the file **proceeds to** ~~is forwarded to the examining division for~~ substantive examination (A-XIV, 6).”	
97	**Part A**	XIV	1	The last par refers to “an invitation under Rule 62a or 63” and later to “Rule 43(2) [...] or Art. 84”: is the latter not obsolete, in view of the first?		The Office stated that this paragraph will be amended, since the information belongs in the relevant sections on Rule 164(1) and (2). In A-XIV, an amended paragraph could for instance read as follows: "Rule 164 provides the applicant with an opportunity to pay, on invitation and within a two-month period, a further search fee for any claimed invention or group of inventions within the meaning of Art. 82 which has not been searched by the EPO as (S)ISA in the international phase but which is claimed in the set of claims available to the EPO on expiry of the six-month period for filing amendments under Rules 161 and 162. This opportunity is available both where a supplementary European search is to be carried out under Rule 164(1) and where the supplementary European search is dispensed with in the examination proceedings under Rule 164(2). See A XIV, 5.1 for the procedure under Rule 164(1) and A-XIV, 6.2 for the procedure under Rule 164(2) in examination. The matter will be addressed in detail in the respective sections."

						There were no further comments from SACEPO WP/G members.
98	**Part A**	XIV	2.1	Bold-face part incorrect as there are 3 types of 161/162 communications: AA/BB/CC, which indicate whether amendment/arguments are mandatory (risk of deemed withdrawal or not), depending on EPO ISA yes/no and EPO's WOISA positive yes/no: "The communication under Rules 161 and 162 is issued promptly once the EPO is competent to process the application (A-XII, 3) and on condition that it established compliance with the applicable minimum requirements for entry into the European phase. The communication **is issued without consideration whether a WOISA, SISR or IPER established by the EPO was positive or negative** (A-XIV, 2.1.1). The EPO will delay the communication, if the ISR is not yet available to the EPO."	Correction is needed.	The Office will take this suggestion up. A revised fourth paragraph could take the form of the current fifth paragraph with some clarifications, for instance: "The communication under Rules 161 and 162 will be issued in all circumstances. This means that the communication is issued regardless of whether the EPO acted as (S)ISA or IPEA in the international phase, and regardless of whether the EPO or another International Authority arrived at any negative finding in the WO-ISA, SISR or IPER (A-XIV, 2.1.1). It is also issued where the applicant has already filed, together with Form 1200 or later, amendments and/or comments intended to form the basis for the proceedings in the European phase (A-XII, 5.3.1). The only exception is where the applicant has validly waived the right to receive the communication (A-XII, 7.2)." There were no further comments from SACEPO WP/G members.
99	**Part A**	XIV	2.1.1	Also covered in part in 3 and 4.	Consolidate.	The Office will consider the suggestion.
100	**Part A**	XIV	5.2	Title is incorrect.	70(2)(a) shall be 70a(2).	The Office agreed to the suggestion.
101	**Part A**	XIV	6.4-6.6	Seem to be subsidiary to 6.3.	Shall be sub-sections of 6.3 "Substantive examination of a Euro-PCT application accompanied by an IPER".	The Office agreed to the suggestion; the same structure will be implemented as currently found in E-IX, 4.
102	**Part A**	XV	3		Add the usual term "excuse" to the title: "3. Review under Article 24 PCT **("Excuse")**".	The Office disagreed. The title of the current part E-IX, 2.9.2 is "Review under Article 24 PCT and excuse of delays under Art. 48(2) PCT"

						Art 24 PCT does not provide for an "excuse" but allows the designated Office to maintain an application where this is not explicitly required by the PCT (e.g. no claim required for a filing date under the EPC). The PCT uses the word "excuse" only in Art. 48(2) PCT in the context of applying national law to overcome (only) a delay. Art. 24 PCT is broader. The Office will amend the title of A-XV, 3 in accordance with the present title of E-IX, 2 to read "Review under Article 24 PCT and excuse of delays under Art. 48(2) PCT". There were no further comments from SACEPO WP/G members.
103	**Part A**	XV	3	Last sentence has reference to Rule 82*bis*.2 PCT but gives no examples in the EPC: add some which do not have an equivalent in the PCT (or do not apply there, e.g. as sine PCT provisions relate only to time limits specified in the PCT Rules and not, e.g., to the 12m specified in Paris Convention – see AG-IP)?	Add: e.g., Rules 133 and 134(5) when applied in respect of the priority period.	The Office thanked the user for the suggestion and will consider adding a suitable EPC reference.
104	**Part A**	XV	3	Add example.	Add: “The excuse procedure can also be used if an international application was filed without claims and no international filing date was accorded, as the EPC does not require claims to obtain a filing date.”	The Office thanked the user for the suggestion and will take up the example suggested in A-XV, 3.
				Comment	**Suggestion**	**Consultation results**
105	**B**	I	2.2		Proposal: Needs to be amended in contents page for consistency	The Office agreed. We understand this comment proposes to update the heading in the table of contents.
106	**Part B**	III	3.2	A reference to G 1/24 was given in the clarifying comment, but not in the text: to be added.	Amend to: “The principles of claim interpretation as set out in F-IV, 4.2 **(see also G 1/24**) apply.”	The Office disagreed. F-IV 4.2 includes the reference to G1/24 and these principles of claim interpretation apply.

						There were no further comments from SACEPO WP/G members.
107	**Part B**	III	3.11	Added text: It may also do this where the application falls so short of other EPC requirements that it is impossible to carry out a meaningful search on some or all of the claims or part of a claim.	Clarify “other EPC requirement”, e.g. Art. 84 EPC.	The Office disagreed. This part of the text was not changed. The amendment was only in the brackets (adding "following the procedure set out in…"). Further defining "other EPC requirement" is not useful here. There were no further comments from SACEPO WP/G members.
108	**Part B**	III	3.11	We suggest maintaining **SACEPO comment 39** which was not observed by the Office and re-introduce it in next round		The Office disagreed. SACEPO comment 39 read: "GL B-III, 3.11 can be misinterpreted, since this can be done after issuing a CLAR.". The comment was addressed by adding "following the procedure set out in B-VIII, 3". This makes clear that an invitation must be issued. There were no further comments from SACEPO WP/G members.
109	**Part B**	IV	1.2		Reference to be corrected to OJ EPO 2025, A49 required	The Office agreed.
110	**B**	IX	8	Assume this line included in error. There is no chapter IX section 8	Proposal: correct reference.	The Office believed this comment relates to B-XI, 8. The reference to Guidelines E has been replaced by a reference to Guidelines A.
111	**Part B**	X	9.1.3 (and 12)	It is appreciated that the text of 9.1.3 was amended following our suggestion: “If the original document is in a language the search division cannot readily understand (e.g. Chinese or Russian), it is best to cite the abstract. It is possible to obtain a machine translation of a patent document into an official EPO language. This machine translation ~~will~~ must be made available to the applicant (see B-X, 12 and G-IV, 4).”	It is requested that the EPO emphasizes to the examiners that the (machine) translations that were used need to be provided to the applicant. It is suggested to introduce an automatic check on every search or examination product to check that all prior art is in an official EPO language or is provided together with a translation in an official EPO language.	The Office stated that this is not a proposal to change the Guidelines. The suggestion is noted. There were no further comments from SACEPO WP/G members

				We again observed in the last year that in the majority of the cases where Chinese, Japanese and/or Korean prior art is cited as X or Y document by the EPO for an EP-direct case or by the EPO as ISA, the examiner did not provide a translation.		
112	**Part B**	X	9.1.3	It is appreciated that the text was amended following our suggestion: "If the original document is in a language the search division cannot readily understand (e.g. Chinese or Russian), it is best to cite the abstract. It is possible to obtain a machine translation of a patent document into an official EPO language. This machine translation ~~will~~ must be made available to the applicant (see B-X, 12 and G-IV, 4)." However, there is no reason to provide this translation in another language than the language of proceedings. It is therefore requested to require that the translation needs to be provided by the EPO in the language of proceedings, applying Rule 3 EPC *mutatis mutandis*. (It is observed that Rule 3(3) does not relate to translations prepared by the EPO, but only to translations filed by parties, so that (it can be argued that) Rule 3, G 4/08, Guidelines A-VII, 2, 2nd par requires the EPO to provide the translation in the language of proceedings.	It is proposed to amend the text further to: "If the original document is in a language the search division cannot readily understand (e.g. Chinese or Russian), it is best to cite the abstract. It is possible to obtain a machine translation of a patent document into the language of proceedings ~~an official EPO language~~. This machine translation ~~will~~ must be made available to the applicant (see B-X, 12 and G-IV, 4)."	The Office disagreed. Such a limitation does not appear to be required, since prior art does not have to be in the language of proceedings. There were no further comments from SACEPO WP/G members.
				Comment	**Suggestion**	**Consultation results**
113	**Part C**	II	1.2 (former E-IX, 4.3, 4.3.1, 4.3.2	The added text only refers to the situation that EPO was IPEA. It does not cover the situations a) where the EPO was ISA but not IPEA; b) where another authority was the ISA.	Move the text that was added to C-II, 1.2 to a new section "Euro-PCT applications where the EPO was IPEA", or, e.g., include in new section C-III, 4.1.3	The Office clarified that this text from the previous E-IX, 4.3 and 4.3.1 has now been removed as it is duplicated in A-XIV, 6.3 to 6.5. There were no further comments from SACEPO WP/G members.

114	**Part C**	II	1.2	*"The applicant may also request that the examination be based on the documents in the international application as published or on amendments made on entry into the European phase. If the declarations of the applicant are unclear in this respect, the examiner will have to clarify the situation."*	Please clarify, how the *"examiner will clarify the situation"*. By inviting the applicant to make it clear?	The Office noted that this text has now been removed from C-II, 1.2, as it is duplicated with the same wording in A-XIV, 6.5. The meaning of the phrase "clarify the situation" is that the examiner will ensure it is clear to both examiner and applicant which documents the examination will be based on. The way clarification is provided might be, for example, a communication from the examiner to the applicant as to which documents are going to be used, or an invitation to an informal consultation, depending on the particularities of the individual case. The Office does not consider that clarification of A-XIV, 6.5 is needed. There were no further comments from SACEPO WP/G members.
115	**Part C**	II	1.2	4th paragraph 2nd and 3rd sentences unclear as to the nature of the documents.	New application documents in the original language may be attached in annex to the report (Art. 36(3)(a) PCT and Rule 70.16 PCT). The application will also be accompanied by a translation of the ~~annexes~~ annexed documents, transmitted by the applicant, in the same language into which the international preliminary examination report was translated (Art. 36(3)(b) PCT).	The Office noted that this text has now been removed from C-II, 1.2, as it is duplicated in A-XIV, 6.3. The wording has changed there. There were no further comments from SACEPO WP/G members. .
116	**Part C**	II	1.2.1	4th sentence would be clearer reversing the order. Currently reads Within that six-month period, the applicant can comment on both the report and the search opinion and file amendments.	Within that six-month period, the applicant can file amendments and/or comment on both the report and the search opinion.	The Office agreed to the proposal to reverse the order of the sentence.
117	**Part C**	II	1.2.1 (former E-IX, 3.1)	(EPO was not ISA): Add possibility to waive right to **remaining** part of R.161 period is not described, was in Euro-PCT Guide 5.4.020.	Add the text from Euro-PCT Guide 5.4.020: Applicants who do not want to use the entire six-month time limit under Rules	The Office did not agree to the proposal, noting that the new section A-XIV, 2.1 already includes the information from the former Euro-PCT Guide.

					161(2) and 162 EPC for filing further amendments can shorten this time limit and request the immediate start of the supplementary search by explicitly waiving their right to use the remainder of the six-month period.	There were no further comments from SACEPO WP/G members.
118	**Part C**	II	1.2.2 (from E-IX, 3.2)	(EPO was ISA): Add possibility to waive right to **remaining** part of 161 not described, was in Euro-PCT Guide 5.4.030.	Add the text from Euro-PCT Guide 5.4.030: If applicants do not wish to wait until expiry of the six-month time limit under Rules 161(1) and 162 EPC for examination to start, they may request the immediate start of examination by explicitly waiving the right to use the remainder of the six-month period.	The Office did not agree to the proposal, noting that new section A-XIV, 2.1 already includes the information from the former Euro-PCT Guide. There were no further comments from SACEPO WP/G members.
119	**Part C**	III	1.2	Relates to entry phase of Euro-PCT, so shall be moved to A-XII-A-XV.	Move to A-XII-A-XV.	The Office did not agree to the suggestion. C-III, 1.2 is about how the Examining Division deals with missing elements of Euro-PCT applications when they enter the European phase, and it naturally belongs to the section discussing the procedural aspects of substantive examination. There were no further comments from SACEPO WP/G members.
120	**Part C**	III	1.3	Relates to entry phase of Euro-PCT, so shall be moved to A-XII-A-XV.	Move to A-XII-A-XV.	The Office did not agree to the suggestion. C-III, 1.3 is about how the Examining Division deals with erroneous elements of Euro-PCT applications when they enter the European phase, and it naturally belongs to the section discussing the procedural aspects of substantive examination. There were no further comments from SACEPO WP/G members.

121	**Part C**	IV	5	It is noted, that the section has 2 lines on substantive requirements (with a reference) and 2 paragraphs for the formal requirements.	Add a sub-section 5.1 entitled: General provisions governing the presentation of the application documents.	The Office noted that C-IV, 5 is about how amendments are dealt with at the examination stage, and it includes both substantial and stylistic conditions. The Office agreed to consider moving the stylistic requirements to C-III, 2, following the suggestion of SACEPO WP/G members.
122	**Part C**	IV	5	If amended application documents non-compliant with the requirements determined by the President under Rule 49(2) are detected, the applicant must be invited to remedy this deficiency within a two-month period by issuing a communication under Art. 94(3). I did not know that the ED are “detecting”	Suggested wording: If amended application documents do not comply with the requirements determined by the President under Rule 49(2), the examining division **must** invite the applicant to remedy this deficiency within a two-month period by issuing a communication under Art. 94(3).	The Office agreed to the comment and suggested the following wording: "If amended application documents do not comply with the requirements determined by the President in OJ EPO 2025 A49 (31 July 2025), according to Rule 49(2), the applicant will be invited to remedy this deficiency within a two-month period by issuing a communication under Art. 94(3)." There were no further comments from SACEPO WP/G members.
123	**Part C**	IV	5		Correct 3rd §: “decision of the President of the EPO dated 7th July 2025”	The Office agreed to the suggestion and has introduced the new OJ.
124	**Part C**	IV	7.3	Too many words in part (i) – delete some for clarity	where a partial search report or a declaration that a meaningful search was not possible ~~taking the place of the search report under Rule 63~~ has been issued at the search stage after an invitation under Rule 63(1) (see B-VIII, 3, 3.1 and 3.2) and the deficiencies rendering a meaningful search impossible under Rule 63 have been subsequently corrected by amendment complying with Rule 137(5) (see H-IV, 4.1.1) or successfully refuted by the applicant	The Office agreed to the suggestion.
125	**C**	V	4.10	The term "the original set of claims" in "Unless the applicant switches back to the original set of claims or" does not seem to be adequate in this context.	Proposal: The alternative terms "the text proposed for grant" or even "the present text proposed for grant".	The Office agreed to the proposal for clarification and suggested the following wording: "the set of claims originally proposed for grant".

126	**Part C**	V	4.10	Amendment reads as though the criteria of H-II, 2.5.1 are sacrosanct. But H-II, 2.5.1 provides criteria that "Normally" apply while admitting the possibility of exceptions. See comment on H-II, 2.5.1		The Office noted that this is an issue with the criteria of H-II, 2.5.1. Whatever those criteria may be, they must be fulfilled, and any leniency or discretion allowed to the Examining Division is prescribed in H-II, 2.5.1, e.g. by the word "normally". A change in C-V, 4.10 is not needed. There were no further comments from SACEPO WP/G members.
127	**Part C**	V	15.1	Inserted passage relates to a request made during oral proceedings for a decision on the file. The last sentence states "*The procedure described in section C-V, 15.2 applies for the issuance of the grounds for the decision*." But 15.2 requires that "*no new arguments or amendments have been submitted by the applicant since the previous communication*".	Delete final sentence	The Office agreed to the suggestion; the last part of C-V, 15.1 ("and a decision … grounds for the decision.") will be removed.
128	**C**	V	15.1	Although the addition seems generally reasonable, oral proceedings are by definition proceedings in which all parties have the chance to express themselves directly and immediately, avoiding potential miscommunication issues.	Proposal: Thus, the following wording is suggested: "If an applicant requests a decision according to the state of the file during oral proceedings, confirmation will be requested that the applicant does not wish to make any further oral submissions. Upon confirmation, a decision, where appropriate after deliberation, can be announced orally."	The Office agreed to the suggestion and proposed to remove the last part of C-V, 15.1 ("and a decision … grounds for the decision.") There were no further comments from SACEPO WP/G members.
129	**Part C**	V	Annex	When are the EPO going to enter the age of tracked amendments?		The Office took note of the comment.
130	**Part C**	VII	2.4	*"Minutes should always be taken. The minutes should indicate at the beginning the means by which the consultation took place, e.g. by telephone or by videoconference. The examiner has discretion to permit representatives and applicants to make recordings of telephone calls or video calls."*		The Office took note of the comment in view of OJ EPO 2022, A106 (point 14). This states that recordings of telephone or video calls are not permitted, neither in oral proceedings nor in consultations. The relevant passage in C-VII, 2.4 has now been deleted. There were no further comments from SACEPO WP/G members.

				Under which conditions does the examiner not allow the recording?		
131	**Part C**	VII	2.6	Seems sensible.		The Office thanked the user for the comment.
132	**Part C**	VII	2.6	The amended section is very long and would benefit from splitting into sub-sections as well as from moving the last part to the initiation-paragraphs.	It is requested to split amended section C-VII, 2.6 in subsections 2.6, 2.6.1, 2.6.2, …, e.g.: Start section: - **2.6.1 Initiation of a consultation using the Shared Area** before "If the examiner is to initiate a consultation using..." - **2.6.2 Process of a consultation using the Shared Area** before "The process of a consultation ..." - **2.6.3 Minutes of a consultation using the Shared Area** before "Generally, minutes of the consultation..." - Move the text starting at "Consultations relating to amendments agreed immediately prior to completing the Rule 71(3) communication" until the end of the added text to 2.6.1	The Office agreed to split C-VII, 2.6 and proposed two new sections: 2.6.1 (Process of a consultation using the Shared Area) and 2.6.2 (Minutes of a consultation using the Shared Area). There were no further comments from SACEPO WP/G members.
133	**Part C**	VII	2.6	7th § In particular, it must be clear from the minutes what was discussed during the consultation and, if an agreement was reached, any agreed amendments must be identified as precisely as possible. This may be done by referring to the relevant parts of the final edited/commented documents from the Shared Area in the minutes.	This would require that the final edited/commented documents would be in the file. Referring to documents in the shared area does not make sense. The document referred to must be added to the minutes. Please clarify!	The Office explained that the phrase in C-VII, 2.6 has been changed to "quoting the relevant parts". This does not require the final document to be in the file. It (or the relevant parts thereof) could be annexed to the minutes if that is a better way of reporting the results of the consultation and the applicant agrees. The minutes must clearly reflect the results of the consultation; sometimes quoting the agreed text is the most efficient way of doing this. There were no further comments from SACEPO WP/G members.

134	**Part C**	VII	3.3	4th & 5th §: Documents submitted during personal consultations do not need to contain a date or time. Where the submitted document requires a signature, e.g. if the email comprises amended application documents, the signature may be applied to the attached document or to the text of the accompanying email.	If the submitted document comprises amended application document, the document must be dated. Clarify!	The Office clarified that this section concerns the inclusion of any email exchanges in the file. Documents submitted by email during personal consultations do not need to specify a date or time, because either the email body is annexed, which already includes timestamp information, or the timestamp information is included in the minutes of the consultation which refer to the submitted documents. There were no further comments from SACEPO WP/G members.
135	**Part C**	VII	2.6	Seems sensible.		The Office thanked the user for the comment.
				Comment	**Suggestion**	**Consultation results**
136	**Part D**	II	2.1	Amendment reduces clarity	Revert to original language or set out all procedures that may apply	The Office stated that this section lists additional cases where an examiner is considered to have taken part in the proceedings for grant. This information is considered relevant for examiners. There were no further comments from SACEPO WP/G members.
137	**D**	II	2.1	General comment re Part D: Header date has only been changed in the contents pages, not in chapters	Proposal: include numbering.	This proposal seems to be a question of formatting, which will be dealt with at the end of the revision cycle.
				Comment	**Suggestion**	**Consultation results**
138	**Part E**	III	8.11.1	In exceptional cases, if a new and major objection is unexpectedly introduced at the oral proceedings, and the applicant or proprietor cannot reasonably be required to make the necessary amendments there and then, a request for postponement or to continue in writing shall be granted.	What if the new and major objection is introduced shortly before the oral proceedings, e.g. the day before? Please clarify!	The Office agreed to the proposal and suggested amending as follows: "In exceptional cases, if a new and major objection is unexpectedly introduced shortly before or at the oral proceedings, and the applicant or proprietor cannot reasonably be required to make the necessary amendments ~~there and then~~, a request for postponement or to continue in writing may ~~shall~~ be granted."

						There were no further comments from SACEPO WP/G members.
139	**Part E**	III	10.1	Than the recordings will not be provided to the parties is not a provision in OJ EPO 2025, A32. It is noted that the UPC provides the recording at the premises of the court	What is the EPOs opinion on that?	According to OJ EPO 2025, A34 the recording and its transcription are preparatory documents within the meaning of Rule 144(b) EPC. They serve the purpose of enabling the competent division to draw up the minutes of the oral proceedings with the use of AI. Therefore, neither the audio recording itself nor its transcription are included in the file of the application or patent concerned. For the same reason, they are not made available to the parties to proceedings. There were no further comments from SACEPO WP/G members.
140	**Part E**	III	10.1	4th § Sound recordings are made only where evidence is taken (E-IV, 1.7). The recording is kept until the end of **any possible proceedings.**	“Any possibly proceeding “ is unclear. Is it any possibly proceedings at the EPO? What about proceedings in UP and/or national courts? Clarify!	The Office agreed to amend the sentence and suggested changing the wording to: "any possible proceedings before the EPO". This would include not only appeal proceedings but also proceedings after remittal. There were no further comments from SACEPO WP/G members.
141	**Part E**	III	10.3	“If the applicant or one of the parties makes a drawing, e.g. on a white board to explain a technical point, and the division considers this important for the decision, there are two possibilities to reflect this drawing in the minutes. The minute writer can take a screenshot during oral proceedings held by videoconference or a photograph in case of oral proceedings on the premises of the EPO, which is attached to the minutes. It may also be sufficient to verbally describe the drawing in the minutes.”	What will be the reaction of the division if a party requests that the minute writer takes a screenshot for the minutes? Delete:	The Office stated that the division will handle such requests, as explained in E-III, 10.3. In many cases, the division will choose to take a screenshot/photo. But in other cases, the relevant parts of something drawn on the whiteboard is better captured in one or two sentences. This possibility should be kept for the sake of concise minutes. The Office did not agree to the proposed deletion. It is at the division's discretion to

				It is simple to take a photo or a screenshot. A simple verbally description may not be clear and may include an interpretation of the minute writer.	"It may also be sufficient to verbally describe the drawing in the minutes"	decide if a written description is sufficient to reflect a drawing in the minutes. There were no further comments from SACEPO WP/G members.
142	**Part E**	III	10.3	New text: If the applicant or one of the parties makes a drawing, e.g. on a white board to explain a technical point, and the division considers this important for the decision, there are two possibilities to reflect this drawing in the minutes. The minute writer can take a screenshot during oral proceedings held by videoconference or a photograph in case of oral proceedings on the premises of the EPO, which is attached to the minutes. It may also be sufficient to verbally describe the drawing in the minutes.	Either delete "there are two possibilities to reflect this drawing in the minutes", -or make it clear what is possibility I and what is possibility II.	The Office agreed to the proposal and suggested to amend the text to read "…, there are the following possibilities:..". There were no further comments from SACEPO WP/G members.
143	**Part E**	IV	4.3	3rd § "When taking a decision, the deciding body must be convinced that the alleged fact is true taking all evidence into account." This sentence I unclear. Which "alleged fact"?	This sentence is unclear! Clarify, e.g.: "When taking a decision, the deciding body must ~~be convinced that the alleged fact is true taking~~ take all evidence into account to decide which allegation is considered to be true.	The Office did not agree to the proposal. The key message of the sentence is clear and true for any type of proceedings (*ex parte*, *inter partes*). It is not only about which allegation is true, but whether the alleged fact is true. "The alleged fact" means the fact alleged by (allegation/ assertion of) the given party. SACEPO WP/G members explained that it would be clearer to refer to the "division" instead of the "deciding body". The Office agreed to make this amendment for consistency with the preceding sentence.
144	**E**	IV	4.3	The text which is proposed for removal seemed clear and helpful in assessing the standard of proof, particularly in prior use cases. It also contained helpful references to case law.	Proposal: It is suggested to keep such text.	The Office did not agree to the proposal in view of the abolition of the binary approach to the standard of proof. This abolition was based on a clear and consistent development in the case law of the Boards of Appeal.

						SACEPO WP/G members suggested adding a reference to G2/21. After reconsideration, the Office remains of the opinion that this is not necessary because the principle of free evaluation of evidence has been established before G 2/21 mentions it.
145	**Part E**	VI	2	What is the reason for the paragraph at the top of page VI-2 being in italics and in a different font?		The Office explained that this must have been a formatting error which has since been resolved. There were no further comments from SACEPO WP/G members
146	**Part E**	**VI**	2	"Handover" unclear: by who?	Clarity to: "The latest date up to which submissions can be considered at all is the date on which the decision is handed over **by the responsible division to .... [insert name of responsible service; previously "internal post"]** for notification by the EPO".	The Office did not agree to the proposal. The current formulation tries to cover all possible notification means and all possible decisions by any of the departments of the Office. There were no further comments from SACEPO WP/G members
147	**Part E**	**VI**	3		Suggested amendment: Refusing to admit a further auxiliary request under Rule 116 before even seeing its contents is an incorrect exercise of discretion by the opposition division since it does not allow for assessing whether or ~~not the amendments~~ **the further auxiliary request is** ~~are~~ a fair attempt to overcome objections or whether the request is prima facie allowable.	This comment relates to E-VI, 2.2.1. The Office did not agree to the proposal. "The amendments" is appropriate in the sentence as it is the amendment (included in the request) that overcomes the objection. The request is a formal means to file the amendment. There were no further comments from SACEPO WP/G members
148	**Part E**	**XI (formerly XII)**	7.1 & 7.2	E-XI, 7.1 (esp. last paragraph on page XI-3 of the summer draft), E-XI, 7.2 and possibly E-XI, 7.4.1, C-III, 1 and C-VI, 1.2-1.3 need amendment in view of the Communication of the Board of Appeal pursuant to Article 15(1) of the Rules of Procedure of the Boards of Appeal in case T 0759/23-3.5.01 (EP appl 18904476.1) dd 14.07.2025 (link)	Please review and amend the appropriate GL sections following the discussion in T 0759/23's communication under Art. 15(1) RPBA.	The Office did not agree to the proposal. First, it does not include any specific suggestion, and it is unclear what exactly should be amended. Second, the comment concerns a communication of the Board and not a final decision. Third, in any case Guidelines E-XI, 7.1, E-XI, 7.4. are in line with Art. 109(2), which requires the appeal to be remitted to the Boards of Appeal

				In particular item 5.3 (referring to E-XI, 7.2), item 5.6 (E-XI, 7.1 and 7.4.1), 5.10 (C-VI, 1.2-1.3), 5.11 (C-VIII, 1; E-XI, 7.1) and 5.12- 5.18.		without comment as to its merit. Internal notes are kept in the non-public part of the electronic file. The Office believes the case referred to by the Boards is an isolated case. SACEPO WP/G members explained their concerns about the internal note being available to the Boards. They also stated that this case should be further monitored. The Office reiterated its position as set out above, highlighting that technical investigations were ongoing to prevent such cases in the future.
149	**E**	**IX**		It was a more significant restructuring of the GL in this regard than a mere move.		The Office noted that this comment does not contain any specific suggestion. The aim of moving the content of the former E-IX to chapter A in a different structure was to include relevant information from the Euro-PCT Guide in the Guidelines. There were no further comments from SACEPO WP/G members.
				Comment	**Suggestion**	**Consultation results**
150	**Part F**	II	4.1	Amendment is welcomed.		The Office thanked the user for the positive comment.
151	**Part F**	II	4.4	The sub-section is entitled “Irrelevant matter” whereas the content discusses matter that “the examining division does not require” or “unnecessary”. “Unnecessary matter” may not be “irrelevant” (Rule 48(c) refers to both).	Amend the title and bring it in line with the title of F-II, 7.4 “Irrelevant or unnecessary matter”.	The section was not modified. The Office agreed to the suggestion of changing the title to bring it in line with F-II, 7.4. There were no further comments from SACEPO WP/G members.
152	**Part F**	II	4.13	Amendment is welcomed.		The Office thanked the user for the positive comment.
153	**Part F**	II	7.4	The section is based on Rule 48 (c). Rule 48(c) refers to patent application rather than to patent.	Delete “It may, however, be matter which has become obviously irrelevant or unnecessary only in the course of the examination proceedings, e.g. owing to a	The section was not modified. The Office agreed to consider rewording the section, e.g. to delete the reference to the patent.

					limitation of the claims of the patent to one of originally several alternatives."	There were no further comments from SACEPO WP/G members.
154	**Part F**	III	10	At least 2nd § is not correct. Proofs are not required! The headnote of G2/21 says: I. Evidence submitted by a patent applicant or proprietor to prove a technical effect relied upon for acknowledgement of inventive step of the claimed subject-matter may not be disregarded solely on the ground that such evidence, on which the effect rests, had not been public before the filing date of the patent in suit and was filed after that date. II. A patent applicant or proprietor may rely upon a technical effect for inventive step if the skilled person, having the common general knowledge in mind, and based on the application as originally filed, would derive said effect as being encompassed by the technical teaching and embodied by the same originally disclosed invention.	Input from BC	The Office disagreed. The second paragraph is taken almost word for word from G 2/21, reason 77. The section concerns sufficiency of disclosure of further medical use claims. However, G 2/21 gives conditions when a technical effect can be relied upon for an inventive step. There is no contradiction with G 2/21, reason 77. One SACEPO WP/G member expressed the view that the wording inserted is not identical and introduces more conditionality than G2/21, reason 77. The Office agreed to review the suggested wording and will revert to this question at the next meeting.
155	**Part F**	III	10	The 2nd paragraph reads "In order to meet the requirements of Art. 83, the proof of a claimed therapeutic effect has to be provided in the application as filed, in particular if, in the absence of experimental data in the application as filed, it would not be credible to the skilled person that the therapeutic effect is achieved. A lack in this respect cannot be remedied by post-published evidence (G 2/21)." The paragraph is not in line with the Headnote 1: " Evidence submitted by a patent applicant or proprietor to prove a technical effect relied upon for	In our opinion this is not correct. Where in G 2/21 is this stated?	See comment 154.

				acknowledgement of inventive step of the claimed subject-matter may not be disregarded solely on the ground that such evidence, on which the effect rests, had not been public before the filing date of the patent in suit and was filed after that date."		
156	**F**	IV	3.3	Additional comments regarding refusal requiring complete reasoning and allowing applicant to comment appears fine.		The Office thanked the user for the positive comment.
157	**F**	IV	4.1	Appears acceptable, together with comments on G 1/24 in 4.2.		The Office thanked the user for the positive comment.
158	**F**	IV	4.1	We are glad to see that the Office followed our recommendations to finally add the positive definition for the requirement in the Guidelines. We have a comment about the wording they chose, which is the following (F-IV.4.1): "*There should be no doubt as to which subject-matter is covered by the claims. The skilled person should be able to establish the demarcation of the scope of the claim without undue burden. Otherwise ,the claim lacks clarity*." The definition is correct as is, but it would benefit from a legal basis being provided. They refer to II.A.1. and II.A.3.1 in the comment, and the word "demarcation" can only be found there in a reference to T 754/13. II.5.32, which refers to the "boundary of the claimed invention" instead.	I would thus recommend they add T 754/13, especially since it stands apart from the language which can be found elsewhere on the subject, for instance in the GL ISPE.	The Office disagreed. The statements on clarity reflect the general jurisprudence of the Boards of Appeal as confirmed in a large number of cases. They are not linked to the particular circumstances of T 754/13. It is therefore not appropriate to add a reference to that case. However, since the term "demarcation" is not otherwise used in the Guidelines and not necessary in the context, the Office is willing to remove it and simply state the condition that "the skilled person should be able to establish the scope of the claim without undue burden." SACEPO WP/G members agreed with this deletion.
159	**F**	IV	4.1	- General remark: A measure regarding the development of a structured methodology for clarity was a result of		The Office thanked the user for the comments.

				the clarity workshop in November 2024 (see document CA/40/25 Add. 1 by EPO Administrative Council, p. 75, Fig. 47). Can respective (further) improvements to the GLs be expected and if yes, when? - May be further adapted in the light of G 1/24. However, as G 1/24 addresses the assessment of the patentability of an invention under Articles 52 to 57 EPC, a possible adoption should keep in mind that the clarity requirements of Article 84 EPC remain unaffected, i.e. may not be "compensated" by mere claim interpretation via a consultation of the description and drawings without claim amendment in case of unclarity (see Order and section "Reasons for the Decision – Admissibility of the Referral", 20.).		- One of the recommendations to emerge from the workshop on clarity was indeed that the EPO "should develop a structured methodology for [the assessment of] clarity". Preliminary work on this topic is ongoing, but it will take some time until any conclusions on the feasibility of developing a standard methodology for assessing clarity are reached. The Office will keep users informed of progress. - The emphasis of the importance of the examination of clarity in G 1/24 is in line with F-IV, 4.1. G 1/24 does not provide any additional details regarding assessment of clarity; therefore it does not appear appropriate to include further content from it in this section. The Office will continue to monitor case law on the examination of clarity, in particular in the context of applying G 1/24. There were no further comments from SACEPO WP/G members.
160	**Part F**	IV	4.2	The § incorrectly referred to , incorrectly says "referred to", but it should say "shall be consulted" says:	Replace 1st § by: "The claims are the starting point and the basis for assessing the patentability of an invention under Articles 52 to 57 EPC. The description and drawings **shall always be consulted** to interpret the claims when assessing the patentability of an invention under Articles 52 to 57 EPC, and not only if the person skilled in the art finds a claim to	The Office disagreed. The verb "shall" is not normally used in the Guidelines (except for direct quotations from the EPC), but replaced by synonyms – here, the present tense. The meaning of the sentence is the same as in G 1/24. There were no further comments from SACEPO WP/G members.

					be unclear or ambiguous when read in isolation. (G 1/24, Order)."	
161	**Part F**	IV	4.2	G 1/24 also explicitly provides that claims interpretation needs to be performed by the EPO: (reason 4): to be added	Add as opening sentence: "The departments of the EPO, in the course of their duties, are required to interpret patent claims when assessing the patentability of an invention under Articles 52 to 57 EPC (G 1/24, reason 4)."	The Office disagreed. There is no doubt that claims have to be interpreted when assessing patentability; this was confirmed by the statement of the EBoA that it "is not a matter of dispute". Since this is self-evident, the Office does not see any need to add a sentence in this respect. The additional sentence as suggested could be misunderstood to mean that patentability assessments must always be accompanied by separate explicit explanations of claim interpretation, which is certainly not the case in clear-cut situations. SACEPO WP/G members agreed that no separate explicit explanations need be given in clear-cut situations where the interpretation is not disputed. One member stated that explanations of claim interpretation were required if the division departed from the normal understanding of the claim. The Office agreed. However, this is a matter of providing reasons for objections not immediately apparent, which is for instance dealt with in C-III, 4.1.1. Therefore it did not appear appropriate to add to F-IV, 4.2 an additional sentence requiring claim interpretation.
162	**Part F**	IV	4.2	The addition "However, when assessing patentability, the description and drawings cannot be relied on to read into the claim an implicit restrictive feature not suggested by the explicit wording of the claim (see T 223/05)." is in conflict with G 1/24, also in view of the underlying case.	Delete "~~However, when assessing patentability, the description and drawings cannot be relied on to read into the claim an implicit restrictive feature not suggested by the explicit wording of the claim (see T 223/05).~~"	The Office disagreed. The statement that "the description and drawings cannot be relied on to read into the claim an implicit restrictive feature not suggested by the explicit wording of the claim" is not in conflict with G 1/24. It

				G 1/24 effectively overturns T 223/05. T 233/05 cannot be relied on as it was issued before G 1/24. The sentence is also in conflict with page IV-24: “When the use of a relative term is allowed in a claim, this term is interpreted by the division in the least restrictive possible way (consulting the description and drawings)”, where the description and drawings is relied on to read into the claim an implicit restrictive feature.		corresponds to established jurisprudence set out in the case law of the BoA, II.A.6.3.4. The EBoA essentially confirmed the principles of claim interpretation from existing case law, except where it saw no need to refer to the description and drawings when interpreting a claim unless the claim is unclear or ambiguous (G 1/24 points 10-14). This finding has already been confirmed in more recent case law issued after G 1/24 (see e.g. T 2027/23, T 1999/23, T 1846/23, T 1069/23, T 400/23). The reference to T 223/05 in this context could therefore be removed or replaced by a reference to more recent case law. There is also no conflict with section F-IV, 4.6 on the interpretation of relative terms. These are allowed if they have a well-recognised meaning in the art or their meaning is clear in the context of the whole disclosure. This means that the description and drawings are referred to when interpreting relative terms, which is in line with G 1/24. Relative terms are interpreted in the least restrictive way possible (consulting the description and the drawings). This does not equate to reading implicit additional features into the claim which are not suggested by its explicit wording (in the same way as referring to the description and drawings when interpreting claims does not mean that additional features not suggested by the wording of the claim can be read into the claim based on these).

						SACEPO WP/G members welcomed the removal of the reference to T233/05. However, they criticised the chosen wording. In particular, the terms "implicit" and "explicit" were prone to misunderstanding and could be removed without changing the meaning. Some members repeated the request to remove the additional sentence, because the content did not yet reflect established jurisprudence. The Office agreed to review the specific wording of the additional sentence. In particular, removing the terms "implicit" and "explicit" might help improve clarity. However, in light of the content of decision G 1/24 and the subsequent T-decisions, the Office considers it established case law that the description and drawings cannot be used to read into a claim additional feature not implied by the wording of the claim. One SACEPO WP member proposed to add another half-sentence based on G1/24, as follows: "However, when assessing patentability, the description and drawings cannot be relied on to read into the claim a restrictive feature that is neither implied by the explicit wording of the claim (see T 223/05) nor resulting from interpretation of the explicit wording based on the description and drawings." The Office did not agree, as the proposed wording is already reflected in the first paragraph of the same section. Including it again would render the initial statement—that the description and drawings cannot be

						used to read additional features into the claim—superfluous. The Office committed to further monitoring case law on claim interpretation.
163	**Part F**	IV	4.2	The passage "*Moreover, if such a special meaning applies, the division will, so far as possible, require the claim to be amended whereby the meaning is clear from the wording of the claim alone*." goes a long way but could be emphasised.	After "…. *whereby the meaning is clear from the wording of the claim alone*." Add "*The correct response to any unclarity in a claim is amendment (G1/24)".*	The Office agreed in part. Since the enlarged Board of Appeal makes this statement in the context of highlighting the importance of the examination of clarity, it appears more appropriate to add the sentence to F-IV, 4.1. In the context of this statement in G 1/24, the Enlarged Board refers to passages in the comments of the President which essentially confirm the current practice requiring amendments in response to unclarity, in accordance with Guidelines F-IV, 4.2 and 4.3. Accordingly, the additional sentence of G 1/24 confirms current practice already covered by the Guidelines. There were no further comments from SACEPO WP/G members.
164	**F**	IV	4.2	- First paragraph, "[…] and not just in the case of unclarity or ambiguity": See remark regarding F-IV, 4.1, second bullet point. - Second paragraph: T 223/05 (p. 15, second paragraph) uses the term "particular meaning […] which only appears in the description" rather than "implicit restrictive feature". The wording in the GLs may be adapted accordingly. However, it may be worth discussing if an interpretation of a claim by consulting the description and the drawings might not, in certain cases, necessarily lead to a restriction of the		The Office disagreed. - First paragraph: the Office will continue to monitor case law on the examination of clarity, in particular in the context of applying G 1/24. - Second paragraph: the wording chosen is based on the general jurisprudence of the BoA, see chapter II.A.6.3.4. T 223/05 is only one of many T-decisions that have confirmed this principle. It has also already been confirmed in more recent case law issued after G 1/24

				claim which is not suggested by the explicit wording of the claim.		and referring to it (see e.g. T 2027/23, T 1999/23, T 1846/23, T 1069/23, T 400/23). See also our reply to comment 162. There were no further comments from SACEPO WP/G members.
165	**F**	IV	4.2	- New comment on not reading an implicit restrictive feature on claim wording but nothing about implicit broadening based on the description.		The Office noted that the statement the description cannot be used to read implicit restrictive features into a claim is not a change of practice, but in line with the reworded last sentence of the current Guidelines section (see our replies to comments 162 and 164). Regarding the situation where the description provides a broader definition of a term in the claim, the Office is considering adding further guidance based on current practice. (If the description gives a broad special meaning to a term used in a claim, the claim is interpreted in the light of that broad definition, provided it is technically meaningful). There were differing opinions among SACEPO WP/G members. While some expressed concerns about treating narrow and broad definitions in the description differently, others argued that differentiation is justified. They viewed it as a matter of fairness to third parties to interpret claims in the broadest reasonable way, which supports handling narrow and broad definitions differently in the context of claim interpretation. The Office committed to further analysing existing case law and continuing to monitor developments in claim interpretation. In

						view of the need to clarify current practice, the Office stressed that it sees merit in specifying how broad definitions in the description influence the interpretation of claims.
166	**F**	IV	4.6	- (former 4.6.2): "[…] this term is interpreted by the division in the least restrictive way (consulting the description and drawings)": Rather align with the exact wording of G 1/24: "[…] this term is interpreted by the division in the least restrictive way, wherein, for a respective interpretation, the claim is the starting point and the description and drawings shall be consulted". -		The Office agrees in part. Rather than adding the order of G 1/24 again, the Office will consider adding a reference to F-IV, 4.2. The addition of the reference was welcomed by SACEPO WP/G members.
167	**Part F**	IV	4.11	G1/24 may overrule some of the findings of T849/11 as it specifically says interpretation of the claims is in the light of the description and drawings. In particular, if the description and drawings **must** be consulted in interpreting the claims and the description only describes one method of determining a parameter is it necessary for the description of the parameter to be included in the claims?	Amend (i) by deleting *"(not including knowledge derived from the description)*". Flag for full review in next iteration in light of G1/25.	The Office disagreed. The order of G 1/24 cannot be interpreted to mean that the description and drawings can be relied on to read into the claim implicit restrictive features not suggested by the explicit wording of the claim. This has already been confirmed by recent case law issued after G 1/24 (see e.g. T 2027/23, T 1999/23, T 1846/23, T 1069/23, T 400/23; see also our reply to comment 162). Therefore the principles for clarity of products characterised by parameters stated in G-IV, 4.11 still apply. In particular, even if the description only discloses one method for measuring a parameter, that method must appear in the claim itself (except in the situations also given in the Guidelines, e.g. if the measurement method to be employed belongs to common general knowledge).

						The Office will continue monitoring jurisprudence applying G 1/24 in the context of examination of clarity. There were no further comments from SACEPO WP/G members.
168	**F**	IV	4.22	Wording is softened regarding broad claims not being supported or sufficient. Appear to be acceptable.		The Office thanked the user for the positive comment.
169	**F**	IV	4.23	Uncontroversial comment regarding claim numbering.		The Office thanked the user for the positive comment.
170	**Part F**	V	2.2	The added sentence is welcomed as it suggests performing a full search. However, the added sentence should not give rise to “a posteriori unity” objections, even if the search is made.		The Office thanked the user for the comment. The additional sentence makes it clear that no further search fees will be requested if the other inventions can be searched without effort together with the first invention. This applies regardless of whether the non-unity objection raised is *a priori* or *a posteriori*. There were no further comments from SACEPO WP/G members.
171	**F**	V	2.2	Useful clarification regarding search in the case of lack of unity.		The Office thanked the user for the positive comment.
				Comment	**Suggestion**	**Consultation results**
172	**Part G**	II	3.3	**UNAMENDED SECTION** T1741/22 criticised this section saying “2.3.7 As to the Guidelines for Examination in the EPO (in its applicable version of March 2022 and also in its current version of March 2024), section G-II, 3.3, which relates to the technical contribution of mathematical methods, lists 1. "providing a medical diagnosis by an automated system processing physiological measurements"	Consider amending “providing **a medical diagnosis** by an automated system processing physiological measurements" to “providing **medical information** by an automated system processing physiological measurements"	The Office did not agree to the suggestion. It noted that the example of "providing a medical diagnosis by an automated system processing physiological measurements" is inspired by G 1/04, which in Reasons 5.3 requires "preceding steps of a technical nature" for a method of medical diagnosis to be an invention within the meaning of Art. 52(1), in cases where the deductive medical decision phase is a purely intellectual exercise. The requirement of an automated system that processes physiological measurements provides those steps, since

				2. among "examples of technical contributions of a mathematical method". As providing a "medical diagnosis" - whether done by a physician or by an automated system - is devoid of any technical character (see e.g. G 1/04, Reasons 5.3 and 6.3), this example is clearly erroneous. As there is no further explanation, let alone a reference to any case law, the board sees no reason to speculate on how the Guidelines came up with this example (cf. Article 20(2) RPBA)."		it is based on an interaction with physical reality at the outset of the diagnosis method (see G 1 /19, Reasons 99). Moreover, provision of medical information and not a diagnosis would not necessarily be technical, as it could be related to non-technical medical data, e.g. health records. There were no further comments from SACEPO WP/G members.
173	**G**	II	3.3.1	Additional wording appears redundant.	Proposal: "contribute to a technical solution to a technical problem" is sufficient. Alternatively, "contribute to the technical character of the invention" (following Comvik) should be sufficient. Overuse of the fairly meaningless word "technical" does not help.	The Office agreed in part to the proposal. It noted that the phrase "contribute to producing a technical effect that serves a specific technical purpose" was introduced in G-II, 3.3.1 after a previous comment that the application of the computational algorithm in a field of technology could only serve a generic technical purpose which would not be enough to contribute to the technical character of the invention (see also G-II, 3.3). It also noted that the word "technical" is not meaningless, especially since G 1/19 went to great lengths to analyse it and explain its meaning within the EPC (paragraphs 75-101). However, it was agreed that a shorter wording would deliver the meaning more efficiently, and the Office will consider amending G-II, 3.3.1 accordingly, focusing on the requirement for a technical solution to a technical problem.
174	**Part G**	II	3.3.1	There are more ways to establish technicality than technical effects that an invention may produce as output. For example, the technicality may be	Artificial intelligence and machine learning are based on computational models and algorithms such as artificial neural networks, genetic algorithms, support	The Office agreed in part to the proposal. While the meaning of the paragraph should not be altered to accept that AI/ML computational algorithms unconditionally

				established on the input side or be based on some other reason. Thus, the proposed amendment appears to be too narrow in nature. As it furthermore appears to be is a mere repetition of more general statements in chapter 3.3 and as chapter 3.3.1 refers to the guidance in chapter 3.3 anyway, it is proposed to abstain from (at best) partially repeating some text of chapter 3.3 and to not adopt the proposed amendment.	vector machines, k-means, kernel regression and discriminant analysis. Such computational models and algorithms are per se of an abstract mathematical nature, irrespective of whether they can be "trained" using training data. However, their use does not by itself render inventions related to artificial intelligence or machine learning non-patentable, and the guidance provided in G-II, 3.3 generally applies. This means that, if a claim of an invention related to artificial intelligence or machine learning is directed either to a method involving the use of technical means (e.g. a computer) or to a device, its subject-matter has technical character as a whole and is thus not excluded from patentability under Art. 52(2) or (3). In such cases, the computational models and algorithms themselves ~~contribute to the technical character of the invention if they contribute to producing a technical effect that serves a specific technical purpose, and thus~~ contribute to a technical solution to a technical problem, for example by being applied in a field of technology and/or by being adapted to a specific technical implementation.	contribute to a technical solution to a technical problem, it agreed to simplify the wording. It also noted that the repetition of terminology found in G-II, 3.3 and other sections of G-II, 3 signifies that the same legal provisions regarding the patentability of claims containing mathematical methods and other subject-matter excluded under Art. 52(2) EPC apply in the same way to claims related to AI and ML.
175	**G**	II	3.3.1	(it is assumed that the comment relates directly to the comment and suggestion above): It is much appreciated that concerns raised by the EPPC ICT Group of epi have been considered and resulted in an amended text. However, the amendments take away the concern only in part as it still uses some very "absolute" terms. Not every Artificial Intelligence or Machine Learning is based on computational models and algorithms. This can be	It is requested to further amend the proposed text to read: Artificial intelligence and machine learning are may be based on computational models and algorithms such as artificial neural networks, genetic algorithms, support vector machines, k-means, kernel regression and discriminant analysis. Such computational models and algorithms are per se may per se be of an abstract mathematical nature, irrespective of	The Office did not agree to the request. Artificial intelligence is defined as the ability of a machine to mimic human intelligence by stimulating human learning, comprehension, problem solving, decision making, creativity and autonomy (see e.g. the IBM website). Machine learning is the most widely used type of artificial intelligence. The "machine" is invariably a computer, or at least something with computational capabilities, which automatically means that ML and AI in

				resolved by replacing the "are pre se" by "may be". Neither is beyond any doubt sure that Artificial Neural Networks are per se of an abstract mathematical nature, irrespective of whether they can be "trained" using training data. This can be resolved by removing ANN and their training from the list of examples.	whether they can be "trained" using training data. However, their use does not by itself render inventions related to artificial intelligence or machine learning non-patentable, and the guidance provided in G-II, 3.3 generally applies. This means that, if a claim of an invention related to artificial intelligence or machine learning is directed either to a method involving the use of technical means (e.g. a computer) or to a device, its subject-matter has technical character as a whole and is thus not excluded from patentability under Art. 52(2) or (3). In such cases, the computational models and algorithms themselves contribute to the technical character of the invention if they contribute to a technical solution to a technical problem, for example by being applied in a field of technology and/or by being adapted to a specific technical implementation	general are based on computational methods, i.e. models and algorithms. An artificial neural network *per se*, without considering any specific implementation or application, is a computational method/algorithm that comprises nodes connected by edges, which are not physical entities but variables and rules about how the variables are connected. That is a mathematical system, which is abstract in nature. The training of the neural network is a process that defines the functionality of the nodes, and does not bestow any technical properties on the ANN. The EPO's position sparked a discussion with SACEPO WP/G members.
176	**Part G**	II	3.3.1	Reacting to **SACEPO comment 109** the Office added “In such cases, the computational models and algorithms themselves contribute to the technical character of the invention if they <u>contribute to producing a technical effect that serves a specific technical purpose, and thus</u> contribute to a technical solution to a technical problem”. The suggestion **SACEPO comment 109** did not include “that serves a specific technical purpose”. In addition, the amendments take away the concern only in part as it still uses some very "absolute" terms.	Either delete “that serves a specific technical purpose” or amend as it follows: <u>contribute to producing a technical effect and thus serves a specific technical purpose and</u>	The Office agreed to the suggestion in part. It noted that the suggestion of SACEPO comment 109 was to introduce the following phrase: "In such cases, the computational models and algorithms themselves contribute to the technical character of the invention if they contribute to a technical solution to a technical problem, for example **by serving a specific technical purpose** and/or by being adapted to a specific technical implementation." A variation of that sentence in line with G-II, 3.3 was introduced, and it was agreed that the wording could be simplified to deliver the meaning more efficiently.

				Not every Artificial Intelligence or Machine Learning is based on computational models and algorithms. This can be resolved by replacing the "are pre se" by "may be". Neither is widely accepted that Artificial Neural Networks are per se of an abstract mathematical nature, **irrespective of whether they can be "trained" using training data. This can be resolved by removing ANN and their training from the list of examples**.		The issue of whether AI and ML are based on computational models and whether ANN are of an abstract mathematical nature was discussed with SACEPO WP/G members; see the reply to the previous comment.
177	**Part G**	II	4.2.1	The added passage overstates the decision on which it is based and is liable to be misunderstood to encompass features that are defined by the implanted state. Clarify.	Replace passage with - *A device defined by a feature that can only be reproduced by a surgical or therapeutic step is excluded from patentability under Article 53c EPC (T775/97 – see also Case Law of the Boards of Appeal I.B, 4.4.4(f)).*	The Office disagreed. The text as proposed by the Office is taken verbatim from the initial decision T775/97 Reasons 2.8 and Case Law Book I.B, 4.4.4(f) 2nd para. last sentence. Decision T775/97 is also mentioned in the Guidelines. The sentence proposed by the user is not from T775/97, but Case Law Book I.B.4.4.4(f) concerning decision T1731/12. This decision cites the sentence proposed by the Office in Reasons 13. In Reasons 14 it states: " *Die hier entscheidende Kammer sieht keinen Grund von der Entscheidung T 775/97 abzuweichen. Sie stimmt der Überlegung zu, dass ein durch einen chirurgischen Schritt definiertes Erzeugnis ohne diesen gar nicht existieren kann, so dass der chirurgische Schritt zum beanspruchten Erzeugnis dazugehört."* There were no further comments from SACEPO WP/G members.

178	**Part G**	II	6.2	Amended text is an improvement, however. Why does the EPO still exclude the patentability alternative antibodies? Even if the exist techniques for designing antibodies with structurally different and similar effects, the assessment of inventive step MUST always be performed on a case-by-case basis. There is no basis in the EPC for simply blocking for patenting of alternative invention or require that is must not be obtain using generic manufacturing.		This comment discusses perceptions of current examination practice and does not contain any proposal. The Office disagreed with the comment. Antibodies are considered to involve an inventive step in accordance with Articles 52 and 56 EPC if, having regard to the state of the art, they are not obvious to a person skilled in the art. If an alternative antibody is not obvious, it involves an inventive step. There were no further comments from SACEPO WP/G members.
179	**Part G**	II	6.2	**1. Positive Developments** We welcome the removal of the negative presumption language ("does not" and "unless") from the Guidelines, as this appeared to create an unsupported presumption against patentability under Article 56 EPC.		The Office thanked the user for the positive comment.
180	**Part G**	II	6.2	**2. Areas Requiring Further Revision** We respectfully submit that 3 key aspects of the current proposal require revision to ensure full compliance with Article 56 EPC and established EPO practice – see comments 158-160 These proposed revisions would: • Align the Guidelines with established EPO legal framework • Remove technology-specific barriers not supported by the EPC • Provide clear guidance while maintaining flexibility for case-specific assessment • Ensure equal treatment of antibody technology under Article 56 EPC.		The Office disagreed, as explained in 181-183 below. There were no further comments from SACEPO WP/G members.

181	**Part G**	II	6.2	**A. Legal Terminology** The current use of "surprising" and "unexpected" in relation to technical effects does not align with the established legal framework of Article 56 EPC. While these terms may be indicative of inventiveness, they are not legal requirements.	We propose replacing these terms with "non-obvious" to better reflect the legal standard used in the problem-solution approach. ▪ *Current text: "Examples of surprising technical effects include an unexpected improvement over prior-art antibodies..."* ▪ *Proposed revision: "Examples of non-obvious technical effects may include improvements over prior-art antibodies in one or more properties, such as therapeutic activity, stability or immunogenicity, or properties not exhibited by prior-art antibodies, where the provision of an antibody with such improvements would not have been obvious to the skilled person following the problem-solution approach."*	The Office disagreed with the proposal. As already discussed, this section provides several non-exhaustive instances reflecting case law of the EPO's Boards of Appeal where an antibody can be considered inventive. The proposed amendment does not appear to be necessary and would not improve the text. There were no further comments from SACEPO WP/G members.
182	**Part G**	II	6.2	**B. Conditional Framework** The replacement of "does not...unless" with "IF" maintains a conditional hurdle specific to antibodies. This creates a de facto technology-specific barrier not supported by Article 56 EPC. ▪ *Current text: "The subject-matter of a claim defining a novel antibody binding to a known antigen involves an inventive step **if**..."*	*Proposed revision: "The assessment of inventive step for antibodies binding to a known antigen follows the general principles of Article 56 EPC. The following are examples of factors that may contribute to a finding of inventive step:…"*	The Office disagreed with the proposal. As already discussed, this section provides several non-exhaustive instances reflecting case law of the EPO's Boards of Appeal where an antibody can be considered inventive. The proposed amendment is not necessary, since the provisions of the EPC must apply. There were no further comments from SACEPO WP/G members.
183	**Part G**	II	6.2	**C. Non-Exhaustive Nature of Examples** The current proposal presents four specific categories for demonstrating inventive step, which could be interpreted as an exhaustive list. We propose clarifying that these are examples rather than requirements.	We propose the following structure for Section G-II, 6.2: ▪ *"The assessment of inventive step for antibodies binding to a known antigen follows the general principles of Article 56 EPC. The following factors, among others,*	The Office disagreed with the proposal. It would be evident to an objective reader that the list is not exhaustive. Nonetheless, the Office will consider the matter carefully. There were no further comments from SACEPO WP/G members.

					may support a finding of non-obviousness: *Non-obvious technical effects, including improvements over prior-art antibodies in properties such as therapeutic activity, stability or immunogenicity, or properties not exhibited by prior-art antibodies* ○ *Absence of a reasonable expectation of success in obtaining antibodies having the required properties* ○ *Resolution of technical difficulties in generating or manufacturing the antibodies* ○ *Development of novel types of antibody formats demonstrating effective binding activity_* *This list is not exhaustive, and other factors may be relevant depending on the specific technical circumstances of the case".*	
184	**Part G**	IV	2	It is incorrect that the reproducibility requirement does not apply – G 1/23 says that it **does** apply, but it discusses it interpretation, and G 1/23 concludes that the reproducibility requirement is satisfied for a product put on the market before the date of filing as it can the product can be reproduced/obtained by buying it (in my informal words). Also, the citation "and all analysable properties of that", even though taken from G 1.24, may be misunderstood as is it taken out of context out of the whole decision, and without the context is easily understood wrongly. In particular does G 1/23 indicate that the analysibility does	Replace the first two sentences of the added text by: "A product put on the market before the date of filing of a European patent application cannot be excluded from the state of the art within the meaning of Article 54(2) EPC for the sole reason that its composition or internal structure could not be analysed and reproduced by the skilled person before that date. (G 1/23, order 1). The expected reproducibility of the product must be understood as the ability of the skilled person to obtain and possess the physical product; this would mean that the requirement would be inherently fulfilled by	The Office agreed with the suggestions in part. Concerning the proposed addition with regard to "analysability", it considered that this was not the question at issue in G1/23 (see reasons 24 and 25). The Office explained the intended modifications to the text of the first draft, taking into account the comment. There were no further comments from SACEPO WP/G members.

				not need to be possible before the filing date.	a product put on the market (G 1/23, reason 73).” And also add: “The chemical composition of a product is part of the state of the art when the product as such is available to the public and can be analysed by the skilled person, irrespective of whether or not particular reasons can be identified for analysing the composition. (G 1/23, reason 73, last sentence).”	The revisited paragraph will read as follows (the full text was not handed out): "A product put on the market before the date of filing of a European patent application cannot be excluded from the state of the art within the meaning of Article 54(2) EPC for the sole reason that its composition or internal structure could not be analysed and reproduced by the skilled person before that date (G 1/23, order 1). The requirement of reproducibility (enablement, see G1/23, summary V) is inherently fulfilled, as it is satisfied by the skilled person's ability to obtain and possess the marketed product (G 1/23, reason 73). A product put on the market is thus part of the state of the art and all analysable properties of that product are also part of the state of the art (G1/23, Reasons 74 and 91). In this context, the term "product put on the market" includes man-made products as well as naturally occurring materials (G1/23, Reasons 30). Such products are usually relied upon as prior use, see G-IV, 7.2. Technical information (e.g. by publication of technical brochure, non-patent or patent literature) about such a product which was made available to the public before the filing date forms part of the state of the art within the meaning of Article 54(2) EPC, irrespective of whether the

						skilled person could analyse and reproduce the product and its composition or internal structure before that date (G 1/23, order 2)."
185	**Part G**	IV	2		At the end of the added paragraph, add "and its composition or internal structure before that date" as it is in the headnote of the decision	The Office agreed to the proposal. For details, see comment 184.
186	**Part G**	IV	2	The added passage overstates the decision on which it is based and is liable to be misunderstood to exclude products from any form of enablement assessment. G1/23 has clear and specific language – even if its meaning will take some time to digest. It is unfortunate that the EBA did not give a view on "without undue burden" so we can expect G1/23 to lead to some weird decisions before the law settles down.	Replace the inserted passage with A product put on the market cannot be excluded from the state of the art for the sole reason that its composition or internal structure could not be analysed and reproduced by the skilled person. All analysable properties of a product put on the market became public by the possibility that they could have been analysed, because the product was physically accessible. If the composition could be analysed, this became part of the state of the art as well, even if the skilled person would not have been in the position to reproduce it on their own. Publicly available technical information about such a product forms part of state of the art, irrespective of whether the skilled person could analyse and reproduce the product and its composition or internal structure. (G1/23).	The incorporation of the suggestion in comment 184 is considered to address the present comment. There were no further comments from SACEPO WP/G members.
187	**Part G**	IV	7.2.1	The sentence "Thus, such characteristics cannot be considered as already having been made available to the public (see G 1/92)." was deleted, but shall be kept – the situation referred to (further medical use; second mon-medical use; both based on inherent but not-yet-known-to-the-skilled-person characteristics) is not affected by G 1/24!	Keep "Thus, such characteristics cannot be considered as already having been made available to the public (see G 1/92)."	The Office agreed to the proposal, but proposed adding the word "extrinsic" to this sentence as follows: "Thus, such **extrinsic** characteristics cannot be considered as already having been made available to the public (see G 1/92, reasons 3; this principle is unaffected by G 1/23)"

						This is to more clearly differentiate between the aspect of "extrinsic characteristics" (G1/23 reasons 3) already discussed in G-IV, 7.2.1 and the contribution of G1/23 concerning making the composition and internal structure (intrinsic characteristics) of a product available. The second sentence inserted ("are not to be regarded as having been made available to the public because they…") will be deleted. There were no further comments from SACEPO WP/G members
188	**Part G**	IV	7.3.4	"Establishing the content of an oral disclosure requires **strong** evidence. Whether the amount of evidence provided is sufficient to prove the content of the oral disclosure to this standard has to be evaluated on a case-by-case basis and depends on the quality of the evidence in each case. However, evidence from the lecturer alone is usually not a sufficient basis for determining the content of the oral disclosure." Is the first sentence clear enough? The passage from "Whether" to the end makes clear how to assess oral disclosures.	Delete "strong".	The Office did not agree to the proposal in view of the abolition of the binary approach to the standard of proof. Abolition is based on clear and consistent development in the case law of the Boards of Appeal. See comments 143 and 144 in the context of part E-IV, 4.1 und 4.3 There were no further comments from SACEPO WP/G members.
189	**G**	IV	7.5.4	Agree with SACEPO comments regarding search engine indexing dates being unreliable for proof of publication date.		In G-IV, 7.5.4 the reference to indexing dates was deleted in the first draft. This is considered to address the remark made by the SACEPO WP/G in the May consultation.
190	**Part G**	VI	1	The title is "**State of the art under Art. 54(2)**", but the section is actually defining novelty.	Amend title to: "**Novelty and** state of the art ~~**under Art. 54(2)**~~".	The Office agreed to the suggestion.

191	**Part G**	VI	1	This seems to be the only paragraph where claims interpretation for examining novelty is (to be) discussed: Needs to be updated in view of G 1/24.	Insert as second paragraph: "The departments of the EPO, in the course of their duties, are required to interpret patent claims when assessing the patentability of an invention under Articles 52 to 57 EPC (G 1/24, reason 4). The claims are the starting point and the basis for assessing novelty and further patentability requirements of an invention under Articles 52 to 57 EPC. The description and drawings shall always be consulted to interpret the claims when assessing the patentability of an invention under Articles 52 to 57 EPC*, and not only if the person skilled in the art finds a claim to be unclear or ambiguous when read in isolation*. (G 1/24, Order)." The part in italic could be omitted for the purpose of G-VI, 1	The Office did not agree. Incorporation of aspects of G1/24 concerning claim interpretation are not best suited in this part. In part F-IV, 4.2 "Interpretation" information from G1/24 was introduced. There were no further comments from SACEPO WP/G members.
192	**Part G**	VI	6.1.1	**NOT AMENDED IN PROPOSED GUIDELINES** See T 1252/20 (EMBOLIC SYSTEM / 3-D) 06-02-2024 | Epo.org which directly criticises G-VI, 7.1.1 [Now 6.1.1]. The decision appears well reasoned.	Replace the third paragraph by an extract from paragraph 12 of the Decision. "*The question of whether a material, or an object is a "substance or composition" in the sense of Articles 53(c) and 54(4)or (5) EPC should be decided, in the first place, on the basis of the claimed material or object as such. If this analysis leads to the conclusion that indeed a substance or composition is present, this requirement of Article 54(4) or (5) EPC is fulfilled. No additional restrictions relating to its mode of action are derivable from the EPC.*"	The Office noted that the proposal does not concern a modification of the first round, but constitutes a new subject of a substantive nature. The Office will consider the proposal in the next revision cycle, as it is based on what could be regarded as a new line of case law. There were no further comments from SACEPO WP/G members.
193	**Part G**	VI	7	Not clear why the gold standard doesn't apply to all of the subsections but the amendment to 7(1)(b) does not go far enough. It still includes reference to end points contrary to T261/15. On this point T261/15 has been followed in e.g. T1096/19, T2250/18,	Amend passage to read: *A claimed selection of a subrange is not considered novel if any specific value ~~disclosed~~ exemplified in the prior art falls within the claimed range~~, irrespective of whether the value stems from a specific~~*	The Office did not agree with regard to endpoints. The numbers will be deleted from the final version.

				Drawing in 7(2)(b) not clear – refers to endpoints.	~~*example or is disclosed as the endpoint of a range*~~. Delete the numbers from the drawing Delete “or a range endpoint”.	The Office noted that T261/15 applies the three-point test ("narrow"; "sufficiently far removed"; "seriously contemplate"), not the gold standard following T1688/20. In any case, it considers that the following original wording still applies, including with regard to the gold standard. The nature of a specific value (an example or endpoint) is irrelevant as long as such values are directly and unambiguously disclosed in the prior art: "A claimed selection of a subrange is not considered novel if any specific value disclosed in the prior art falls within the claimed range, irrespective of whether the value stems from a specific example or is disclosed as the endpoint of a range." There were no further comments from SACEPO WP/G members.
194	**Part G**	VI	7	One topic where I feel that more clarity would be helpful is regarding GL G-VI, 7 dealing with the novelty of selection inventions. This section of the GL have been substantially amended in 2024 and now clearly distinguishes situations where a single selection is made (7(i)) versus those where multiple selections are made (7(ii)). The GL clarify that different criteria must be used to assess multiple selections made from lists as opposed to subranges. What remains unclear to me is how to deal with situations where the	Provide guidance based on case-law.	The Office noted that the proposal does not concern a modification of the first round, but constitutes a new subject of a substantive nature. The Office will consider the proposal in the next revision cycle. It noted that point 7(ii)(c) addresses the case of a combination of selections from lists and subranges.

				selection involves combinations of elements from both lists and subranges (7(ii)(c)). I find the GL very unclear on this point, and no decision is referenced to provide additional guidance.		There were no further comments from SACEPO WP/G members.
195	**G**	VI	7	Appears to be simplifying the test for sub-ranges based on G 2/10 and T 1688/20, removing lots of material.		The Office noted the remark.
196	**Part G**	VII	1	This seems to be the only paragraph where claims interpretation for examining inventive step is (to be) discussed: Needs to be updated in view of G 1/24.	Add: "The departments of the EPO, in the course of their duties, are required to interpret patent claims when assessing the patentability of an invention under Articles 52 to 57 EPC (G 1/24, reason 4). The claims are the starting point and the basis for assessing inventive step and further patentability requirements of an invention under Articles 52 to 57 EPC. The description and drawings shall always be consulted to interpret the claims when assessing the patentability of an invention under Articles 52 to 57 EPC, *, and not only if the person skilled in the art finds a claim to be unclear or ambiguous when read in isolation*. (G 1/24, Order)." The part in italic could be omitted for the purpose of G-VII, 1	The Office did not agree. Incorporation of aspects of G1/24 concerning claim interpretation are not best suited in this part. In part F-IV, 4.2 "Interpretation" information from G1/24 was introduced. There were no further comments from SACEPO WP/G members.
200	**G**	VII	3.1	Some softening of wording regarding whether information in text books is CGK. Appears to be acceptable in light of T 1249/22. This does, however, raise the question of why the Guidelines are being modified in light of this T decision when the more emphatic view of the Board in T 56/21 regarding F-IV, 4 .4 (not changed) has been ignored.	Proposal: Clarification on the reasoning behind why the Guidelines should be changed in view of some decisions and not others would be useful.	The modification originated from comment 127 in the May SACEPO consultation, which the Office supported. The Office refers to the General Part of the draft EPC Guidelines 2026, Point 3.4, which provides general guidance on the references to case law included in the Guidelines.

201	**Part G**	VII	5.2	Recent decision T 1465/23 (Isolated islands of cryptography/GN HEARING) 24-06-2025 | epo.org states in effect that *… if a prior-art composition of A+B+D achieves an effect only through the functional interaction of D with A and B and a claimed composition of A+B+C achieves the same effect through the functional interaction of C with A and B, then C indeed provides a technical alternative by identifying an alternative way of achieving the same effect, i.e. solving a problem known in the prior art. In contrast, if the addition of C does not lead to an effect through its functional interaction with A and B and therefore C does not contribute to a technical effect beyond that already provided by A+B, then C is a non-functional modification for which the "provision of an alternative way" cannot constitute a suitable objective technical problem.* This appears sensible. Putting a non-opening zip on a piece of clothing for fashion reasons (I was never a punk) does not affect the function of the clothing, and yet is an alternative achieving the same technical effect of acting as clothing. Mere addition with no added or enhanced technical effect should not provide inventive step. And yet the Guideline could be understood otherwise.	Consider for clarification in next iteration	The Office will consider the proposal in the next revision cycle.
202	**Part G**	VII	12	Due to the deletion of the sentence on seriously contemplating, the remaining sentence lacks the reference to sub-ranges and other selection inventions.	Amend to: “For inventive step **in relation to selection inventions**, it has to be considered whether the skilled person would have made the selection or would have chosen the	The Office agreed to the suggestion.

					overlapping range in the expectation of some improvement or advantage. If the answer is no, then the claimed matter involves an inventive step.”	
				Comment	**Suggestion**	**Consultation results**
203	**Part H**	II	2.3	The inserted passage separates the possibility of *prima facie* assessment from the nature of *prima facie* assessment and does not explain that clearly. In addition the passage switches from allowability of amendments to allowability of requests without clear explanation	Amend One of the assessments the examining division may carry out in this respect is a *prima facie* assessment of the allowability of the amendments filed. A *prima facie* assessment requires a first impression review to determine whether the amendment is clearly not allowable. If assessment of allowability requires discussion at the same degree of detail as if the amendment were admitted, the amendment should be admitted. Where the examining division decides to make use of this discretionary power not to admit amended claims, the reasons why the amended set of claims is *prima facie* not allowable must be given. If extensive reasoning for not admitting an amendment is required, this indicates incompatibility with a *prima facie* assessment .	The Office thanked the user for the comment. The suggestions have been reflected in a revised version. The amended section reads as follows: *"*One of the assessments the examining division may carry out in this respect is a prima facie assessment of the allowability of the amendments filed. Where the examining division decides to make use of its discretionary power not to admit amended claims, the reasons why the amended set of claims is prima facie not allowable must be given. An extensive reasoning is incompatible with a prima facie assessment. Therefore, if an amendment needs to be discussed with the same degree of detail as if it had been admitted, it should be admitted."
204	**Part H**	II	2.3.2	2nd paragraph requires clarification.	If, after examination of one invention has started, ~~during the examination proceedings~~ the applicant tries to switch to a second searched invention, the amended claims will not be admitted in the proceedings under Rule 137(3) since only one invention in each application can be examined (see H-II, 6.1, third paragraph).	The Office agreed to the proposal.

205			2.3.3	Second line: This is a general comment: Why do amendments include amendments"?		The Office did not comment on the proposal as it was not clear what was meant.
206	**Part H**	II	2.5.1	G7/93 on which this is based is recognised as being based on a time when different legal provisions applied, and when the applicant in that case had already approved the text. G7/93 stated "*2.5 When deciding whether or not to allow a request for amendment at that stage of the pre-grant procedure, in the exercise of its discretion under Rule 86(3) EPC, in the Enlarged Board's judgment* ***an Examining Division is <u>required</u> to consider all relevant factors which arise in a case. In particular, it <u>must</u> consider <u>both</u> the applicant's interest in obtaining a patent which is legally valid in all of the designated States, and the EPO's interest in bringing the examination procedure to a close by the issue of a decision to grant the patent, and must balance these interests against one another***." G7/93 also stated *it should be borne in mind that a request for amendment at that stage may arise either as a result of* ***a realisation by the applicant of a need for amendment****, or as* ***a result of a point raised by the Examining Division****, or as a result of* ***consideration of observations made by a third party pursuant to Article 115 EPC.*** As currently drafted, this guideline does not stress the balancing of interests required.	In the next iteration of the guidelines, specific circumstances should be indicated in which amendment at this stage will normally be allowed – e.g. • if new novelty destroying art has come to light • if new art has come to light prejudicing inventive step • if comments in the 71(3) communication indicate that the examining division have a different interpretation of the claims than the applicant. All of these circumstances could prejudice legal validity in the designated states.	The proposal does not concern an amendment made by the Office, but is a new comment which will be considered in the next revision cycle. There were no further comments from SACEPO WP/G members.

207			2.5.3	Here is stated “If the application was one of the exceptional cases …in H-II, 2.2…” In H-2, 2.2 it is not mentioned that these cases are exceptional – please amend		The Office did not see a need to amend this passage. From the details provided in H-II, 2.2 it is clear that the scenarios described are exceptional, e.g. applications for which no search opinion is prepared. There were no further comments from SACEPO WP/G members.
208	**Part H**	II	3.1	The second added sentence seems to be grammatically incorrect.	Amend to: “Not admitting late-filed amendments based on arguments of procedural efficiency or non-convergence **as such** ~~should~~ **can** therefore not be based on Rule 80.”	The wording has been confirmed to be correct by Language Services.
209	**Part H**	II	3.1	The amendment makes what was clear now obscure. A simpler amendment may suffice.	Revert to original text but insert before the last sentence “It is the legitimate interest of the patent proprietor to protect their invention to the maximum possible extent, thereby excluding in a post-grant opposition proceedings only subject-matter which was initially covered by the granted claims and which cannot be maintained in view of a ground of opposition. Accordingly Rule 80 should not be used to contest admissibility – but it can be used to contest allowability (T 1191/22).	The Office has reflected recent case law T 1191/22, T 123/22, T 256/19, T 2185/21 and T 1081/20, according to which Rule 80 EPC is a non-discretionary substantive requirement. The proposed amendment is unrelated to this. There were no further comments from SACEPO WP/G members.
210		II	5	Last §, This is not correct. Before refusing an application it should be ensured that no requests for oral proceedings are pending.		The Office was of the opinion that the comment is covered by the last sentence of the section, which reads: "Any request for oral proceedings must be granted before refusing an application." There were no further comments from SACEPO WP/G members.
211	**H**	IV	4.1.2		Proposal: instead state ""If the claims to be examined relate to an invention which differs from any of the inventions originally claimed and searched, an invitation under	The Office is of the opinion that the amended passage provides a clearer explanation of how and when to use Rule 137(5) EPC.

					Rule 164(2) has to be sent out instead (H-IV, 4.2)." Rule 164(2) EPC relates to searching claims that the EPO did not search in its capacity as ISA.	There were no further comments from SACEPO WP/G members.
212	**H**	V	2.2		Proposal: Typo - "technichal"	The Office thanked the user for the comment. The typo has been corrected.
213	**H**	VI	3.3-3.4	3.4 title: Unclear what "an incorrect tenor" means.		The Offices thanked the user for the comment. The tenor refers to the operative part of a decision. Instead of the term tenor, the title now refers to the operative part of the decision. There were no further comments from SACEPO WP/G members.
214	**Part H**	VI	3.4	The title reads: “Correction of errors under Rule 140 after an incorrect cover sheet with an incorrect tenor is sent” - What is a **tenor**? I do not think that that is a commonly understood term, at least not for non-native speakers) - The term tenor does not appear in the section (not elsewhere in the (Guidelines), so can the title not use a term that is commonly understood.	Please clarify!	The Offices thanked the user for the comment. See comment above.
215	**Part H**	VI	3.4	The last paragraph would appear to imply that an appeal must be filed just in case the correction is allowed.	Please clarify	The Office thanked the user for the comment. The sentence has been amended to avoid any unclarity. It now reads as follows: "Where the time limit for appeal against the decision of the opposition division has already expired, and the correction is ~~no longer~~ not allowable, a separate appealable

						decision refusing the request under Rule 140 is issued." There were no further comments from SACEPO WP/G members.
216	**Part H**	VI	2.1.1.1	**UNAMENDED** T387/25 supporting T1003/19 has held that "*The legal consequence of Rule 71(5) EPC, i.e. the deemed approval of the notified text, only arises if the communication sent also complies with the substantive requirements of Rule 71(3) EPC, i.e. if it actually contains the text in which the examining division intended to grant the patent, on the basis of the documents filed by the applicant, possibly supplemented by individual marked amendments*". This might be the best place to insert another instance where the examining division may be involved.	Insert another instance – ahead of "- in opposition proceedings" *"- on appeal after grant if this is to correct an examining division's error in compiling the documents intended for grant in a communication under Rule 71(3) EPC that makes a clearly unintentional omission of part of the documents proposed by the applicant for grant as indicated in the applicant's last request, provided that the applicant has not explicitly consented to the incorrect compilation (T387/25). In such cases the examining division may grant interlocutory revision".*	The Office stated that it was monitoring the relevant case law on this matter and will consider an amendment in the next revision cycle. There were no further comments from SACEPO WP/G members.
217	**HI**	VI	2.2	**This comment was added during the 30th meeting of the SACEPO Working Party on Guidelines** If a request for correction under Rule 139 during opposition is allowed, the correction will be published as part of the publication of the patent as amended.	Add: or as a corrected specification if the opposition is rejected	The Office clarified that republication of the B-specification does not take place when the opposition is rejected. The proposed addition is thus not needed. There were no further comments from SACEPO WP/G members.