Consultation results of the 28th SACEPO WP/G meeting on 9 October 2024 – EPC Guidelines

#	Part	Chapter	Section	Comments	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
1	**Many**			The worries raised in, e.g. items 4, 11, 15 of the 27th SACEPO WP/G meeting have not been addressed (with only one or two exceptions such as in A-III, 6.6). In particular, the 's-constructs have all been maintained and the informal terms that were introduced instead of the formal legal terms were maintained. The 's-constructs result in more complex sentences with the risks of ambiguities or misunderstandings where the earlier language was much simpler and easier to understand. It is submitted that native, expert readers are not the appropriate audience for assessing clarity of the texts. It is also submitted that	Careful reconsideration is requested, with particular attention to non-native readers.		The Office stated that the members' concerns were taken and that some passages had therefore already been updated as requested. After further consideration, the Office agreed to revert to the expression "date of filing" instead of "filing date", where required, and to remove the possessive apostrophe in those passages potentially affecting the readability and clarity of the text. The exercise might be continued in the next revision cycle. Members expressed their satisfaction about the Office's decision.

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				unambiguous, clear, understandable wording, grammar and construction shall have priority over sophisticated, fancy wording and construction.			
2	**General**			The headers are sometimes blank, e.g. from C-VI and in Part A from p. 30 of the PDF. In part E: only for the odd pages blank. This appears to be some formatting error.			The Office acknowledged the comment and indicated that any formatting errors would be eliminated once the final version of the Guidelines 2025 had been passed on to publication.
3	**GP**		1	this addition about AI tools seems a bit clumsy. If the intention is to encourage appropriate use please consider the suggestion here.	Parties may use AI to assist in the drafting and amendment of documents submitted in connection with a European patent application or patent but responsibility for the content of AI-assisted documents still lies		See also comments 5, 6, 7, 8. The Office stated that the use of AI in drafting patent applications was increasing significantly, triggering the need for the clarification proposed, noting that some offices had published extensive guidelines in that regard. In view of the growing interest, the topic would be discussed in the SACEPO WP Rules in October and addressed in the Committee of Patent Law in November.

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							Members supported the Office's approach and the proposed update of the text (see comment 6).
4	**GP**		4	What does *CLPG 2024-D007-001 and email from PD53 dated 14.06.2024* refer to?			The Office explained that the internal reference would not be published in the Guidelines.
5	**GP**		5	Use of AI in the filing process – background? AI drafting tools having an impact?			See also comments 3, 6, 7, 8.
6	**GP**		5	Good to remind us that use of AI does not reduce our responsibility for quality and content, but it seems clearer to separate the comment from the list of procedural stages.	Applicants, proprietors, opponents and their representatives are responsible for the contents of their applications and their other submissions and are responsible for meeting the requirements laid down in the EPC, regardless of whether a document was prepared with assistance from an artificial intelligence (AI) tool.		See also comments 3, 5, 7, 8. The Office agreed to reword the passage as follows: *"The parties and their representatives are responsible for the content of their patent applications and submissions to the EPO and for complying with the requirements of the EPC, regardless of whether a document has been prepared with the assistance of an artificial intelligence (AI) tool."* Members of the SACEPO WP/G approved the reworded text (see also comment 3).

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7	**GP**		5	The inserted paragraph: *While the above steps apply to all European patent applications or European patents regardless of whether a document was prepared by a human or assisted by artificial intelligence (AI), it is the responsibility of the party and their representative to file applications or submissions which meet the requirements laid down in the EPC*.	It is really necessary! It is always the responsibility of the applicant/representative irrespectively of you us AI as an assistant or a trainee or anyone else as assistant! Suggest to delete		See also comments 3, 5, 6, 8.
8	**GP**		5	Sentence added "While the above steps apply to all European patent applications or European patents regardless of whether a document was prepared by a human or General Part – 8 Guidelines for Examination in the EPO March 2024 assisted by artificial intelligence (AI), it is the responsibility of the party	We consider it premature to include a reference to patents being written with the assistance of AI without first initiating a discussion on this subject with the EPO. Furthermore, compliance with the requirements of the EPC should always remain the responsibility of the party and their representatives, making this last part seem superfluous.		See also comments 3, 5, 6, 7.

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				and their representative to file applications or submissions which meet the requirements laid down in the EPC."			

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9		**A**	**II**	**many**	In many places (but not everywhere), "date of filing" was replaced by "filing date" in the 2024 version. However, Article 80 and Rule 40 use the term "date of filing". Similarly, was "official language of the EPO" (Art. 14 EPC) replaced by "official EPO language". Similarly was "Notice from the EPO dated..." (official name as used in the OJ EPO) amended into "EPO notice dated", whereby an incorrect name of the referred notice is introduced. It shall be remembered that the Guidelines target an informed, educated audience (EPO formalities, EPO examiners, European patent attorneys), such that correct and unambiguous language is needed rather than an informal and somewhat ambiguous language (which could be suitable for informal	It is requested to (go back to) consistently using the official legal terms, i.e. "date of filing", "official language of the EPO". Similar for "Notice from the EPO", etc.	See also minutes, point 4. The Office stated that the main goal of modernising the Guidelines is to replace outdated language with shorter and simpler expressions commonly used in modern written English. The members were assured that the Office will ensure consistent alignment of modern English with the provisions of the EPC. *It appears that only very few of the "challenged" expressions and constructs were changed back to official legal terms and that (almost) all 's-constructs were maintained. We again request to reconsider the extent of the modernisation of the wording, and, in particular, to not check it with native speakers / language professionals in the language*	See comment 1.

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					communications targeting a general, non-informed audience).		*department, but to check it with non-native speakers among the target audience for which easy and unambiguous wording, consistent with official legal texts, is key.* *Please explain why!*	
10		**A**	II	1.1.1	Reads as though some notices deleted, relevant notices need to be inserted. Penultimate paragraph refers to filing features of MyEPO Portfolio being available on a "list" – presumably that at Interact with us on your files | epo.org or do they mean something different?	Insert relevant reference where deletions shown Include hyperlink to list.	------	The Office confirmed that the OJ article would be updated following the publication of the relevant decision at the end of October 2024. This was explained in the grey box preceding the section of the draft Guidelines. Re hyperlink: The Office proposed deleting the mention of the EPO website and amending the sentence to: "*Currently, only those submissions and further acts provided for in MyEPO Portfolio and specified in the above notice or in another suitable form may be filed using this service*"

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								There were no further comments from the SACEPO WP/G members.
11		**A**	**III**	**6.6**	The phrase "Where the date of a priority claim precedes the date of filing of the European patent application by more than twelve months, ..." was amended in the 2024 edition to "Where a priority claim's date precedes the European patent application's filing date by more than twelve months, ...". This amendment rendered the phrase very difficult to read and has to risk to be misunderstood.	Please go back to the previous, clear and unambiguous wording: "Where the date of a priority claim precedes the date of filing of the European patent application by more than twelve months,"	The Office agreed to re-formulate the entire sentence. *The amended sentences includes "after the filing date of the claimed priority application". It is requested to consider whether the term "claimed" is really necessary in this context or whether the sentence is more clear without it.*	See comments 1, 12 and 13, and the update proposed in comment 12.
12		**A**	III	6.6	This section requires amendment to improve comprehensibility. There are too many words, and not all in the right place.	Amend to: The priority period is twelve months from the filing date of the claimed priority application. Rules 133 and 134 apply to the priority period under Art. 87(1).	----	The Office approved the proposed updates. One SACEPO WP/G member stated that the term "claimed priority application" was incorrect since only a priority could be claimed, not a priority application. The Office

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						Where the European patent application's filing date is ~~more than twelve months after~~ outside the priority period of the claimed priority application (taking into account where applicable Rules 133 or 134), the applicant may be informed by the Receiving Section that their priority claim is considered invalid unless they: (i) indicate a corrected date lying within the ~~twelve month period preceding the filing date~~ priority period and do so within the time limit according to Rule 52(3) (see A-III, 6.5.2) or (ii) request re-establishment of rights in respect of the priority period and do so within two months of the expiry of the priority period, and this request is subsequently granted (see paragraph below). This only applies where the applicant		agreed to reflect on a more accurate formulation.

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						also filed the European patent application within the same two-month period. Where priority is claimed from an application having the same filing date as the European patent application (see A-III, 6.1), the EPO will inform the applicant that priority cannot be claimed from this application unless the priority date can be corrected (see A-III, 6.5.2). ~~Rules 133 and 134 apply to the priority period under Art. 87(1).~~ If the date indicated for the previous application is subsequent to or the same as the filing date, the procedure set out in A-III, 6.5.2 also applies (with regard to the possibility of correcting clerical or similar errors, see A-V, 3). According to Art. 122 and Rule 136(1) re-establishment of rights in respect of the priority period ~~(twelve months according to Art. 87(1))~~ is		

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						possible. The request for re-establishment must be filed within two months of expiry of the priority period (Rule 136(1)) and the omitted act, i.e. the establishment of a filing date for the European patent application, must also be completed in this period (Rule 136(2)). For more details on requesting re-establishment of rights, see E-VIII, 3.		
13		**A**	III	6.6		In first §: "may be" should be amended to "will be"		The Office accepted the suggestion.
14		**A**	**III**	**11 and sub-sections**	The readability of the text has become worse by the introduction of phrases like "the application's filing date", "the patent's grant", "a contracting state's designation", "the designation's deemed withdrawal", ... Rather than a simplification of language (as it was announced), this renders the wording less	Please go back to clear and unambiguous wording from before, using "XX of YY" rather than "YY's XX" (where XX and YY could be verbs or nouns),	See #4 above. We prefer the clear and unambiguous wording. This Is a legal test – clarity must prevail. Please reconsider.	See comment 1.

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					clear, certainly for non-native speakers, but presumably also for native speakers. It shall be remembered that the Guidelines target an informed, educated audience (EPO formalities, EPO examiners, European patent attorneys), such that correct and unambiguous language is needed rather than informal and somewhat ambiguous language.			
15		**A**	III	11.3	Does this mean there still are applications filed prior to April 2009 that have still not had designation fees paid?	If yes – put a black border around the whole section to make clear its limited applicability. If no – delete the whole section.		The Office stated that it would look further into the matter and consider changing the section in GL 2026. The Office further explained that this section reflected the provisions under Art. 2(2) RFEE, the scope of which was reflected in the title of section 11.3.
16		**A**	III	13.2	Are there still applications where this is relevant?	Delete 1st paragraph. Delete "for European patent applications filed on or after 1 April 2009".		See comment 15.

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						Delete "entering the European phase on or after 1 April 2009"		
17		**A**	**III**	**15**	The phrase "and the applicant indicated on the date of filing that the previously filed were to take the place of claims in the application as filed" was amended into "and the applicant indicated on the filing date that the previously filed application's claims were to take the place of claims in the application as filed". In particular the term "the previously filed application's claim" is unclear, while the original phrasing was correct, clear and unambiguous.	Please go back to clear and unambiguous wording from before, using "XX of YY" rather than "YY's XX" (where XX and YY could be verbs or nouns), i.e., here to: "and the applicant indicated on the date of filing that the previously filed were to take the place of claims in the application as filed"	See #4 above. We prefer the clear and unambiguous wording. This Is a legal test – clarity must prevail. Please reconsider.	See comment 1. The Office agreed to reword the paragraph as follows: *"If the application was filed by means of a reference to a previously filed application in accordance with Rule 40(3) and the applicant indicated on the filing date that the claims of the previously filed application's claims were to take the place of claims in the application as filed (see A-II, 4.1.3.1), then, provided the previously filed application also contained claims on its filing date, claims were present on the filing date and no communication under Rule 58 will be sent."*
18		**A**	**IV**	**1.1 and sub-sections**	Similar as above, terms " the earlier application's effective entry into the European phase", " the divisional application's date	Please go back to clear and unambiguous wording from before, using "XX of YY" rather than "YY's XX" (where	See #4 above. We prefer the clear and unambiguous wording. This	See comment 1.

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					of receipt" were introduced and replaced clear and unambiguous terms	XX and YY could be verbs or nouns),	Is a legal test – clarity must prevail. Please reconsider.	
19		**A**	IV	1.4.1	Penultimate paragraph – are there any extant cases to which this might apply?			See comment 15.
20		**A**	V	3	The section mentions Rule 139 correction for wrong priority claims, but not for missed ones - whereas an omission can also be corrected under Rule 139. It is therefore suggested to add the underlined words	With regard to addition or correction of priority claims, specific provisions apply with a view to protecting the interests of third parties and allow the applicant to add or correct priority claims and lay down a time limit for doing so (see Rule 52(2) and 52(3) and A-III, 6.5.1 and 6.5.2). This ensures that corrected priority information is available when the application is published. After expiry of the applicable period under Rule 52(2) or 52(3), and in particular after publication of the application, the applicant can only correct the priority claim, under Rule 139 EPC (the mistake being an omitted or a wrong priority claim), under certain limited circumstances.		The Office accepted the suggestion.

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21		**A**	VIII	1.3	Legal practitioners to be permitted to be part of an association? Decision?			The Office confirmed that this was in fact being discussed and would be on the agenda of the next meeting of the SACEPO Working Party on Rules. If approved, it would be included in the GL during one of the next revision cycles.
22		**A**	VIII	1.3	Change in practice: legal practitioners do not have to file an authorization.	The question raised by some members is that in certain countries (for example, Liechtenstein), certain work is not permitted for legal practitioners (by court decision) as they do not possess the same expertise as patent attorneys.		The Office stated that the comment was not related to the change in practice. This was a question of national law; see Article 134(8) EPC. There were no further comments from the SACEPO WP/G members.
23		**A**	VIII	1.6	The reference to a not-yet published Decision of the President and the amendments to the text suggest that the waiver of the authorisation will be extended to legal practitioners (who currently always need an authorization). If that is not the case, the amendments need to be undone. (Non-published decision is also referred to in VIII-3.3)			The Office referred to the internal explanation preceding A-VIII, 1.2 and 1.6 in the draft Guidelines. The decision of the President of the EPO dated 8 July 2024 on the filing and signing of authorisations (OJ EPO 2024, A75) and the corresponding notice of the same date (OJ EPO 2024, A77) had been published in the August OJ.

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								There were no further comments from the SACEPO WP/G members.
24		**A**	VIII	2.4	No filing of applications by fax.	This measure seems to be disadvantageous for applicants and premature, as long as faxes still exist. In fact, UNION-IP is aware from participating at the "9th SACEPO meeting of the SACEPO working party on e-patent-process", that the volume of incoming faxes in January 2024 was still at a very high level (nearly 1,500 faxes per month).		See also comments 60 and 62 and PCT-EPO Guidelines, comment 5. The Office stated that the number of fax filings had constantly and significantly decreased over the years. This resulted in the Office's decision to decommission fax filings from 1 July 2024 (see OJ EPO 2024, A41 and A42). As a result, the fax server had been switched off preventing faxes from being sent anymore. Addressing the users' concerns, the Office explained that in the unlikely event of the receipt of a fax submission, the EPO would, applying the principle of good faith, inform the sender that the submission was not valid and had to be refiled by a permitted means of filing.

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25		**A**	VIII	2.5		It is suggested to amend by adding the underlined: "Subsequent documents may not be filed by email, fax or similar means"		The Office stated that it could not accept the proposal for the following reasons: Fax was mentioned in the first paragraph of the relevant section with reference to the decision dated 22 April 2024 published in OJ EPO 2024, A41, and the corresponding notice of the same date published in OJ EPO 2024, A42. That publication was specific to filing by fax. The paragraph referring to email **exceptionally** allowed documents to be filed by email during telephone consultations, etc. Thus, it needed to remain separate from fax. There were no further comments from the SACEPO WP/G members.

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26		**A**	X	4.2.3	*[Was not in original Excel file despite being amended]* The sentence "The principles outlined above, however, do not allow the correction of a debit order by adding any fee that is not indicated in it, even if, according to the status of proceedings, that fee is due on the date of receipt of the debit order" is **inconsistent with T 1000/19 and T 1146/20.** **T 1000/19:** reason 4.3 In case T 152/85 of 28 May 1986 the notice of opposition contained no reference to payment of the opposition fee and the fee was not paid in time. The Board held that the payment of an opposition fee was a factual requirement and thus the failure to pay the fee a factual mistake (point 2 of the reasons). It appeared to be clear from the wording of Rule 88 EPC1973 (Rule 139 EPC2000) that this rule only applied to mistakes made in a document but not to other kinds of mistakes (l.c.).	Bring in line with T 1000/19 and T 1146/20		The Office stated that it could not accept the suggestion for the following reasons: The correction referred to in the relevant section (A-X, 4.2.3) dealt with the Office's practice of correcting *ex officio* debit orders in line with the principles of T 152/85, and not with a request for correction under Rule 139 EPC. Only underpayments, not a missing payment, could be corrected *ex officio*. The Office confirmed that it would instead update the information in A-X, 7.1.1 referring to Rule 139 corrections. On revising that section, further updates to better reflect current practice might be necessary. There were no further comments from the SACEPO WP/G members.

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					reason 4.4 4.4 The present Board fully agrees with the findings in T 152/85, which however does not preclude the application of Rule 139, first sentence EPC in the case at issue. According to the clear wording of Rule 139, first sentence EPC and as pointed out in T 152/85 this provision requires that the mistake to be corrected was made in any document filed with the EPO. In contrast to T 152/85 where no document containing an error was filed, the opponent in the present case filed the electronic form EPO 2300E and hence a document in the sense of Rule 139, first sentence EPC (T 317/19, point 2.4.2.(c) of the reasons). Furthermore, the mistake was made in this document by not activating the payment method in box X. "Payment" of said EPO Form 2300E. reason 4.5.1 The correction must introduce what was originally intended (l.c.,			

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					point 37(a) of the reasons). In the absence of any contrary requirement in Rule 139 EPC, the Board is not prevented from using indications of the appellant's original intention outside the document to be corrected [here, a passage in the notice of opposition]. This is fully in line with G 1/12, where it is stated in point 28 of the reasons: "in the event of a deficiency as to the appellant's identity the Board must establish the true intention of the appellant on the basis of the information in the appeal or otherwise on file". […] reason 4.5.2 The error to be remedied may be an incorrect statement or an omission (G 1/12, point 37(c) of the reasons). In the present case the mistake can be seen in an omission to activate the intended payment method in box X. of the electronic Form 2300E which by default displays the message "Not specified")			

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					T 1146/20: **reason 7./1** [...] The appellant's original intention to pay the opposition fee was immediately apparent from the circumstances that a notice of opposition comprising facts and arguments together with supporting documents was filed and that it had been stated in it that "Any fee is to be charged against account [no]." (see II. above). Taking this information into account is in line with G 1/12, point 28 of the Reasons, which reads "the board must establish the true intention of the appellant on the basis of the information in the appeal or otherwise on file" (emphasis added). The principle set out in point (a) of G 1/12 is thus complied with. As the original intention is immediately apparent, the principle set out in (b) does not apply here. The error to be remedied in the case at issue is an omission, namely the			

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					omission of the ADA debit order in electronically processable XML format in form 1038E as filed on 20 June 2018. The principle set out in point (c) of G 1/12 is thus complied with as well.			
27		**A**	X	4.2.3	Very nice that contingency upload service can be used to file debit orders in an emergency.	It would be appreciated if ADA 7.1.3 could be amended accordingly.		The Office said it did not intend to include that information in the ADA. Instead, the Guidelines had been updated, providing a sufficiently sound legal basis for the exceptional cases in question. There were no further comments from the SACEPO WP/G members.
28		**A**	X	5.2.4	Under A-X 5.2.4: new remark "If the publication ..." : the clarification of the practice is very helpful. Relatedly, I understand (and recently saw in case) that the practice is to postpone the *Decision to grant,* if, at the date the Decision to grant could be issued (i.e. x			The Office acknowledged the observation and referred to Rule 71a(3) and (4) regarding the mechanisms that postpone the issuing of the decision to grant if the designation fee or the next renewal fee fell due before the next possible date for publication of the mention of the grant of the European patent.

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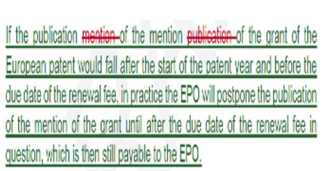
					weeks after payment of the grant fee and filing of the translated claims), a renewal fee is due and not yet paid (and similarly that the Decision to grant is postponed if a renewal fee becomes due in the period between the date the Decision to grant could be issued and the first that could be mentioned therein as the projected date of the mention of the grant). In this way, the date of the mention of the grant in the Decision to grant will be correct or at least will not be condition on any fee payment.			There were no further comments from the SACEPO WP/G members.
29		**A**	X	5.2.4	Referring to new paragraph to A-X 5.2.4  If the publication ~~mention~~ of the mention ~~publication~~ of the grant of the European patent would fall after the start of the patent year and before the due date of the renewal fee, in practice the EPO will postpone the publication of the mention of the grant until after the due date of the renewal fee in question, which is then still payable to the EPO.			The Office clarified the following: – The information had been added at the explicit request of the SACEPO WP/G – The insertion did not concern a change in practice

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					This is a change in practice. Which is the legal basis?			The Office stated that the situation described was extremely rare, i.e. the anniversary (date of filing) of the patent falling within the same month and before the next possible date for publication of the mention of the grant. The anniversary was, however, not the due date for paying the renewal fee; it merely triggered a due date, which was the last day of the month. According to Art. 86(2), the obligation to pay renewal fees ended with the payment of the last renewal fee due to the EPO. The due date for paying renewal fees could not be shifted to an earlier date since there was no legal basis for doing so. The term would thus remain open if the publication of the mention of the grant were not postponed and would therefore breach Art. 86(2). In the rare situation described in the new paragraph, a postponement of the decision to grant could be avoided if

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								the last renewal fee was paid in advance in accordance with Rule 51(1), third sentence, EPC. One member explicitly asked that the latter information be added to the relevant section. The Office stated that it would consider the proposal.
30		**A**	X	5.2.4	In my opinion is a kind of paradox, since, if the EPO postpone the publication, the publication of the mentioning of the grant will not fall after the start of the patent year and before the due date of the renewal fee	Amend to: ~~If~~ **to ensure that** the publication of the mention of the grant of the European patent would **not** fall **in the period** after the start of the patent year and before the due date of the renewal fee, ~~in practice~~ the EPO will, **where required**, postpone the publication of the mention of the grant until after the due date of the renewal fee in question, which is then still payable to the EPO.		The Office accepted the suggestion.
31		**A**	X	5.2.4	I am unclear how the comment about postponement of publication helps with the request in comment 24 of 25/4/24?			See comment 29.

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32		**A**	**X**	**9 and sub-sections**	Rule 7a(1)/(2) and 7a(3) and 7a(4)-(6) and 7b were introduced per 1.4.2024. OJ 2024, A8 gave some clarification, but not in full. In particular is the situation w.r.t. eligibility in case of multiple applicants not clear: Rule 7a(5) says something different than item 15 of the Notice OJ 2024, A8 -- I suggest that this is clarified in the GL Notice OJ 2024, A8 says "15. Under Rule 7a(5) EPC, where there is more than one applicant, **each must be an entity within the meaning of Rule 7a(2)** or (3) EPC for the reduction of fees under the language- and/or micro-entity-related support scheme to apply." (emphasis added). This may be understood to just relate to the category of applicants (as in J 4/18 with former Rule 6(4)(7)) and not	To be included: details on Rule 7a(1)/(2) and 7a(3) and 7a(4)-(6) and 7b for all applicable fees	The Office confirmed that the commenter's observations are correct. It also stressed that its practice would nevertheless continue to follow J 4/18, which has been confirmed in the recently published FAQ. The practice applied will be clearly described when updating the Guidelines. There were no further comments from the SACEPO WP/G members. *Thanks for conforming that the commenter's observations are correct and for clarifying the practice (=continue to follow J 4/18 that held for former R. 6(4)) by keeping the sentence " It is however sufficient for only one of them to be entitled to use an admissible non-EPO language (Art. 14(4), ~~Rule 6(3)~~ Rule 7a(1))."*	The Office acknowledged the positive comment.

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					to the nationality/residence and language of Rule 7a(1)/Art.14(4). So that "A Dutch and German SME may together get a fee reduction when using Dutch", as they are both of such category and the Dutch SME is entitled to use Dutch as admissible non-EPO language. (Note the wording in the current notice reflects the wording of former Notice OJ 2014, A23, item 6: "6. If there are multiple applicants, each one must be an entity or a natural person within the meaning of Rule 6(4) EPC for the fee reduction to apply.", which reflected the wording of former R.6(7): "(7) In case of multiple applicants, each applicant shall be **an entity or a natural person within the meaning of paragraph 4**.")			

		Part A			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
					Rule 7a(5) says: "(5) In the case of multiple persons filing a European patent application or a Euro-PCT application, **the reduction under paragraph 1** or 3 shall be available **only if each applicant fulfils the applicable eligibility criteria**." (emphasis added) and the eligibility criteria of par 1 include the use of an admissible non-EPO language by an Art.14(4) person. Thus, the rule was changed from a category-based requirement to an eligibility-based requirement. In view of this change, Rule 7a(5) seems to require a Dutch applicant and a German applicant both to be eligible, so both to be Art.14(4) people by themselves. This would imply that "A Dutch and German SME			

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					can together **NOT** get a fee reduction when using Dutch", as the German SME is not eligible under Art.14(4). This conclusion, based on Rule 7a(5), is opposite from what it was under R.6(7), OJ 2014, A23 and J 4/18 due to the different wording of Rule 7a(5). Further, it may even be understood as that the admissible non-EPO language used is one to which both applicants shall be eligible. This may result in a presumably unintended non-eligibility when not all applicant are eligible to the use of the same admissible non-EPO language. E.g., a Dutch applicant must use Dutch to be eligible and an Italian applicant must use Italian to be eligible… however, there is no admissible non-EPO			

		Part A			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
					language to which they are both eligible, so they cannot benefit from the fee reduction. Thus, the wording in the new Notice OJ 2024, A8, item 15 seems to wrongly reflect the wording of old Rule 6(7) and Old Notice OJ 2014, A23, item 6, rather than the wording of the current Rule 7a(5). So, I suggest to review the wording of item 15 of Notice OJ 2024, A8, and to also publish a clarification of eligibility for a reduction under R.7a(1) for: joint filing by an Art.14(4) person and a non-Art.14(4) person, both of the categories of R.7a(2) (as Ditch-German above); a joint filing by two Art.14(4) persons which are however entitled to different admissible non-EPO languages, both applicants			

		Part A			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
					being of the categories of R.7a(2) (as Dutch-Italian above).			
33		**A**	X	9.3.1	*[Was not in original Excel file despite being amended]* In 9.3.1, more specific reference preferred	Add the underlined to 9.3.1: "The eligibility of the further entities listed in Rule 7a(2)(d) is subject to the following definitions: (i) "Non-profit organisations" are organisations not allowed by their ..."		The Office said it would prefer to keep the wording as it was for the following reason: From the context, which referred to "... the further entities …" and then listed them one by one, it was clear that the text concerned all other entities besides micro-enterprises and SMEs that were entitled to the fee reductions under Rule 7a. There were no further comments from the SACEPO WP/G members.
34		**A**	X	9.3.1	Deletion of a paragraph makes this section difficult to understand without further explanation in the remaining text. Definition of microenterprises etcetera deletes reference to the Article 2 of the European Commission's regulations, whereas notice of OJ EPO	Replace first two sentences following deleted paragraph with "A 30% reduction of the filing and/or examination fee is provided for applicants whose residence or principal place of business is within the territory of a contracting state having		The Office agreed to reword the passage according to the first proposal. Regarding the second proposal, the Office stated that it would like to keep the present wording for the following reason: For the definition of microenterprises and SMEs, it

		Part A			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
					2024, A8 specifically referred **only** to Article 2. Following text brings in specific text on calculation of headcount with reference to 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.	the language in question as an official language or who are a national of such an EPC contracting state (see the notice from the EPO dated 25 January 2024, OJ EPO 2024, A8)" Replace "Article 2" to conform to the notice. Delete entire section about related entities and if this is necessary – issue fresh notice or amend Rule 7a to include a definitions section. ***Legislation by guidelines is legally unsound.***		relied on the definitions contained in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises. The notice from the EPO dated 25 January 2024 (OJ EPO 2024, A8) correctly referred to Article 2 of the Commission Recommendation for the applicable number of staff headcount and annual turnover/balance sheet total. However, in order to determine the figures, reference had to be made also to the other provisions of the Commission Recommendation. That had been the practice established under revised Rule 6 EPC, which had entered into force on 1 April 2014 (OJ EPO 2014, A23) and continued to apply under new Rule 7a EPC. The Guidelines as amended in A-X, 9.3.1 correctly reflected the continued

		Part A			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
								practice, that the staff headcount and financial ceilings of linked or partnered enterprises had to be taken into account under specific circumstances for the calculation of the relevant ceilings for the applicant seeking a fee reduction. The members indicated that there was some uncertainty among applicants claiming a fee reduction under Rule 7a(1) and (3) EPC on how to remedy deficiencies raised in communications from the Office questioning eligibility for the reduction. The Office noted that the legal basis for asking for evidence was laid down in Rule 7b(3) EPC. A refinement of the corresponding communications could be considered.
35		**A**	X	9.4.1	*[Was not in original Excel file despite being amended]* Divisionals not mentioned. Take from OJ 2024, A8.	Amend the added text to: "No reduction applies if the same applicant has filed five or more European patent applications or Euro-PCT		The Office accepted the proposal.

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						applications within a period of five years preceding the filing date of the European patent application concerned, the date on which the divisional application concerned is filed, or, where a Euro-PCT application is concerned, its date of entry into the European phase (see OJ EPO 2024, A3 and OJ EPO 2024, A8)."		
36		**A**	X	9.4.2	A-X 9.4.2. "If the conditions for the reduction of the examination fee where the EPO has drawn up the international preliminary examination report are also fulfilled, see A-X, 9.5.2." - Para. 9.5.2. gives no information about the cumulation of reductions. It may be helpful to clarify the cumulation of 75% reduction, 30% reduction (twice) and the reduction based on the previously paid international search fee where the EPO acted as ISA, in particular, to clarify if			The Office proposed inserting the following in A-X, 9.5.2: *"If the conditions for a reduction under the language arrangements (see A-X, 9.3.3) are also fulfilled, the examination fee is first reduced by 75%, then by a further 30%, i.e. the total reduction is 82.5%, or the amount payable is 17.5% of the full fee. The same calculation applies if the conditions for a reduction under the scheme for micro-entities (see A-X, 9.4.1) are fulfilled. If the applicant is*

		Part A			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
					any negative amount of the examination fee can be included in the total fees due (the total positive sum of the filing fee, designation fee and examination fee). It is indeed possible to arrive at a negative sum when cumulating all the reductions (Euro-PCT filed with an eligible Finnish micro-entity and Demand was filed), and the EPO's notice on this is really not clear. The order of the reductions can be determined to a certain extent, but on the issue of the end result, they only say that the EPO will not refund any money, but it is not clear if the negative sum can be used to further reduce the other fees due. One can of course see this when using for example Online Filing 2.0, but it would be nice to have some sort of citable information from the EPO on			*eligible for a reduction under both the language arrangements and the scheme for micro-entities, the examination fee is reduced by 75%, then by 30% under Rule 7a(1), and is further reduced by 30% under Rule 7a(3) (see the notice from the EPO dated 25 January 2024, OJ EPO 2024, A8). Under certain circumstances, this calculation can result in a negative amount, meaning no fee is payable. A negative amount is not offset against other fees paid."* There were no further comments from the SACEPO WP/G members.

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					how this is done. (I asked this when the new rules were made public, but never got an answer).			

	Part B			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
37	**B**	**I**	**2**	In the preview version of the 2024 Guidelines posted on the EPO website on 1 Feb 2024, a sentence was added at the end of B-I, 2 reading: " All search actions are endorsed by the other two members of the examining division". However, at some point during the preview period this sentence was again deleted and it also did not appear in the official March 2024 version. However, at the DG1-EPPC meeting on 28.02.2024, Steve Rowan indicated that this early involvement of the other members of the Examining Division has been introduced per 1 November 2023, so it seems appropriate to (re)introduced this sentence. Presumably,	It is requested to add information on new practice of early involvement of the other members of the Examining Division already at the search stage in B-I, 2 (general principle) as well as in the other applicable paragraphs in Part B.	The Office stated that it cannot agree to the suggestion. The Office explained that this sentence from the version of the Guidelines pre-published on 1 February was removed from the version entering into force on 1 March as implementation is in progress. The need to reflect this practice in the Guidelines will be assessed in the course of the current revision cycle. *As the involvement of the other 2 members if the ED already at the search phase is standard practice since 1 Nov 2023 (acc. information Steve Rowan at EPPC meeting on 28.02.2024), we consider it*	See also PCT-EPO GL, comments 33 and 41. The Office stated that implementation of the new concept was still in progress and that users would be informed and consulted on any emerging "best practice" as soon as possible. Only after such consultation might the Guidelines be updated, if needed. It was outlined that consultation and knowledge sharing among examiners were key elements that were already in place, even as early as at the search stage. The SACEPO WP/G members acknowledged that more time might be required for internal consultation but stressed that they would appreciate learning about the envisaged "best practice" as soon as possible.

	Part B			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
				this practice is now only available as Internal Instructions and only available for examiners, but not for applicant and representatives.		*appropriate and necessary to include so in the GL. So it is strongly requested to reflect this practice in the current revision cycle by including the phrase "All search actions are endorsed by the other two members of the examining division" in B-I, 2 and by adding more details in a subsequent (sub-)section, so that other stakeholders can understand the meaning and extent of this endorsement,* There were no further comments from the SACEPO WP/G members	
38	**B**	I	2	*[was not in Excel file, but relates to an item discussed in previous session which was expected to get follow-up]*	As the practice is now in force for almost one year and must have been well-settled, it is again requested to add information on new practice of early involvement		See comment 37.

	Part B			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
				In 27th SACEPO WP/G, it was asked why the draft sentence "All search actions **are endorsed by the other two members** of the examining division" (that was in the first draft in 1 Feb 2024) was deleted while at the DG1-EPPC meeting on 28.02.2024, Steve Rowan had indicated that this early involvement of the other members of the Examining Division has been introduced per 1 November 2023. The office replied "The need to reflect this practice in the Guidelines will be assessed in the course of the current revision cycle. "However, this seems not to have incorporated.	of the other members of the Examining Division already at the search stage in B-I, 2 (general principle) as well as in the other applicable paragraphs in Part B.		
39	**B**	**II**	**2**	Appears to limit the scope of the art to what the examiner finds and does not recognise that other art may be on file and	Amend penultimate sentence "Both the content of the search opinion and the later substantive examination depend on the outcome of the search as it,	The Office explained that state of the art may be cited in different sources. These include prior art cited in the application,	The Office stated that the section had been reviewed but redrafting had not been considered necessary for the following reasons:

	Part B			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
				relevant to assessing patentability.	together with art cited in the application or in third party observations, establishes what state of the art is to be taken as the basis for assessing the patentability of the invention".	prior art cited by the ISA or third-party observations during the international phase, and prior art cited by a national patent office for the priority document. Other parts of the Guidelines relate to what comprises the state of the art (see e.g. B-IV, G-IV). More specifically, E-VI, 3 relates to third-party observations and B-IV, 1.3 to the prior art cited in the application. This section will be reviewed and may be redrafted in light of the above. *Can you outline the review and its results? Will it lead to a redraft in this revision cycle? Or in a next one?*	Art cited in the application was published prior art and hence already encompassed in the search. The same was true for third-party observations in the international phase as findings from other offices were also taken into account when performing the search. The present section was about the purpose of search and was not meant as explaining the sources or the procedure for searching. The Guidelines contained specific sections for the latter. There were no further comments from the SACEPO WP/G members.

	Part B			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
						There were no further comments from the SACEPO WP/G members.	
40	**B**	**VII**	**1.3**	If the search has found documents relevant to other inventions, non-inclusion in the search report prejudges the Examination Division assessment. In addition, inclusion of such documents in the partial search report may also avoid wasted work by applicants and the Office. It will also provide useful information to third parties. Providing such documents with the partial search report appears a win-win by decreasing the number of failed divisional applications.	Change practice and change the guideline.	The Office stated that it cannot agree to the suggestion. The Office indicated that documents concerning further inventions are provided, if they become relevant, once the further search fees have been paid. Furthermore, the present Guidelines already state that documents used for a posteriori non unity objection(s) are mentioned in the partial search report. The examining division and third parties are thus already well aware of them.	The Office explained that it would not deviate from its previous position since the legal framework was clear and in line with Rule 64 EPC. There were no further comments from the SACEPO WP/G members.

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						There were no further comments from the SACEPO WP/G members *No amendment by the Office. We maintain our comment on change of practice from the Office.* *Please reconsider.*	
41	**B**	VIII	4.1	"without extra work" is a strong term. Moderate the strength of the term?	"without significant extra work"		The Office agreed to modify the paragraph to better comply with the wording of Rule 62a(1).
42	**B**	VIII	4.1	What if there are three or more independent claim in the same category And some of these may be searched without significant extra work?	It is suggested to add: Where there are three or more independent claim in the same category, and some of these may be searched without significant extra work, the search division will reflect which of these independent claims may be searched in the same search in the invitation		The Office rejected the proposal. The comment conveyed the idea that the sole criterion would be the amount of necessary work. Referring to Rule 62a EPC, the burden of proof lay in the first place with the applicant to indicate which claims were compliant. Finally, grouping the claims would per se require an extra amount of work. There were no further comments from the SACEPO WP/G members.

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43	**B**	VIII	4.1	Explanation doesn't seem to match amendment in B-VIII, 8.4.1:			The Office clarified that the explanation boxes would not be part of the published Guidelines.
44	**B**	VIII	4.1	The revision provides a helpful clarification (The "Item 44" note does not appear to match the proposed revision and erroneously suggests that sections 4.5, 4.6 and 5 are amended, as does the table of contents)	Remove the Item 44 note and correct the contents page to highlight a revision to Part B, VIII, section 4.1 rather than 4.5, 4.6 and 5		See comment 43.
45	**B**	X	9.4	Improvement			The Office acknowledged for the positive comment.
46	**B**	X	9.4.	The requirement that the search division will identify the relevant parts of the cited document in all cases is welcomed. However the removal of the requirement that a specific part must be referred to in the search opinion is not welcomed. Vague references to the relevant part of a document being "the description" and the like,	Reinstate the requirement that "the search opinion will include specific references to the relevant parts of the state of the art" here and in B-XI, 3.2.1.		The Office stated that it could not accept the proposal. Part X related to the search report. The search report was not the place where a specific passage of a cited document could be linked to a specific feature of the subject matter. That type of substantiation was provided in the search opinion accompanying the search report (see B-XI, 3.2.1 "*For example, where a prior-art document is cited but only part of it is relevant, the*

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				are unhelpful to Applicants resulting in misunderstandings which can hamper the examination process.			*specific passage relied on should be specified*"). B-XI, 3.2.1 had not been modified. The Office therefore saw no need to reinstate anything there. On top of the addition of the reference to B-XI, 3.2.1 during the first draft, the Office proposed adding "specific" to the present part: "*If that is the case, the search opinion will include specific references to the relevant parts of the state of the art together with reasoned objections (see B-XI, 3.2.1).*") The Office took note of the importance for users that examiners continue to make specific references to the relevant parts of the prior art in the search opinion.

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47	**C**	**I**	**2**	The sentence "they should have a sense of proportion and not pursue unimportant objections" was deleted in the 2024 edition. It is requested to reinstate it, as it is an important aspect of, e.g., mindset. *Unfortunately the EPO proposal still do not reintroduce the terms "they should have a sense of proportion", although the proposed wording is an improvement over the earlier text. It would be appreciated if it can be clarified why "sense of proportion" was deleted - it is sufficiently clear and, as we submitted, an important substantive as well as mindset element (and the term is certainly as clear as other terms that are being used such as "helpful"). Based on that argumentation, we may drop our wish to reintroduce the wording, or we may insist that we keep our request to reintroduce it.*	Wording not consistent with C-VIII, 4 to which it refers: use wording of C-VIII, 4 to which it refers.	The Office stated that it cannot agree to the suggestion. There was (and still is) no clear definition of the terms "sense of proportion" and "trivial objections", which was the reason the phrase was removed. Examiners usually reach a reasonable agreement and there is no need to clarify this in the Guidelines. There is no inconsistency between the wording of the last sentence of C-I.2 and C-VIII.4. Both stipulate that the other division members should not repeat the work of the first member. The SACEPO WP/G members commented that	The Office did not agree to reinstate the phrase "sense of proportion". The SACEPO WP/G members stressed the importance of emphasising "proportion" in regard to the examiner's mindset. The Office explained that the present start of the paragraph already set the desired tone ("The attitude of the examiner is very important. Examiners should always strive to be constructive and helpful"). The phrase "sense of proportion" (and "trivial objections") implied that some objections were more significant than others, which had no legal basis, as all objections could prevent an application from proceeding to grant.

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						the sentence deleted was important and brought some balance. They suggested clarifying these terms by re-introducing the sentence with a different wording referring to "a person skilled in the art". The Office agreed to reflect on the rewording of the deleted sentence and to come back with a proposal. There were no further comments from the SACEPO WP/G members.	The Office had introduced the phrase "influence the progress of the proceedings" to reflect the examiners' focus on objections that, if successfully addressed, could render other objections moot. The SACEPO WP/G members proposed including the latter explanation in the Guidelines. The Office agreed to reflect on this point.
48	**C**	**I**	**2**	To make the GLs more balanced and useful please consider the suggestion here. The idea is to help examiners by giving examples of objections and suggestions that have greater or lesser potential to advance the proceedings.	… and prioritise objections and suggestions that have the potential to advance the proceedings. Objections based on the prior art normally have the potential to advance the proceedings more than clarity objections. Suggestions by examiners that lead to a narrow scope of protection have less potential to advance the		The Office rejected the proposal. The SACEPO WP/G members stressed that it would be helpful to include examples for the examiners. The Office explained that objections that would advance the proceedings or

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					proceedings than suggestions with a broader scope.		"influence the progress" as stated in the updated wording were case-specific, making it potentially misleading to offer specific examples. The relevant section of the guidelines aimed to provide a general overview of the examiners' role and responsibilities and therefore had to remain broad and non-specific. There were no further comments from the SACEPO WP/G members.
49	**C**	I	2	A small improvement			The Office acknowledged the positive comment.
50	**C**	I	2	The user consultation expressed disappointment at the removal in 2024 of the comment that examiners "should have a sense of proportion and not pursue unimportant objections". It was suggested to reintroduce such a comment. The proposal to prioritise certain objections does not achieve the intention.	Encourage positive suggestions: "Examiners should always strive to be constructive and helpful, prioritising objections and suggestions that have the potential to advance the proceedings."		The Office agreed to add the term "suggestions".

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51	**C**	**III**	**1.3**	**Comment 48 of the SACEPO WP/G meeting on 10.10.2023 (repeated in new comments)** **C-III, 1.3** – The effect of erroneous/corrections on Rule 159 EPC, Rule 161(1)/162 EPC and Rule 161(2)/162 EPC is not addressed in Rule 56a EPC, nor in the Notice (OJ EPO 2022, A71, items 21-23) clarifying its introduction. Also, the Guidelines do not provide clear guidance. C-III, 1.3 rather indicates only that: *"On entry into the European phase, **the normal procedures apply** on the basis that the correct and erroneously filed parts are thus part of the application as filed (see E-IX, 2)".* It would be better to explain that the applicant is expected to amend the Euro-PCT application by removing the erroneously filed part and to limit to the correct parts upon entry under Rule 159(1)(b) EPC following a PCT Rule 20.5*bis*(d) situation. If not done upon entry, it seems likely that the applicant will be invited thereto in the communication under Rule 161(1)/(2) EPC. Further, if the entry documents contain	Clarification is requested! What will the ED do in this situation where the entry documents contain non-searched matter at the end of the Rule 161/162 period? Specify what is meant by "the normal procedure". In principle OK, but in order to avoid the use of the unclear phrase "normal procedure" the sentence may be re-worded as follows: On entry into the European phase, the procedure is followed on the basis that the correct and erroneously filed parts are part of the application as filed.	The Office explained that the situation of Rule 20.5*bis*(d) described in C-III.1.3 is where a correction (not an amendment) is made to the application originally filed and the correct element is considered to have been contained in the original application, in which case the erroneously filed element remains in the application and the filing date is not changed. As such, the application is not expected to be amended to remove the erroneously filed part to satisfy Rule 159(1)(b) EPC; according to Rule 20.5*bis*(d) "the erroneously filed element or part concerned shall remain in the application", and according to OJ EPO 2022, A71 (referred to in C-III.1.3) "The erroneously filed documents may only	The Office accepted the editorial suggestion.

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				non-searched matter at the end of the Rule 161/162 period, will the EPO issue a communication under Rule 164(1) or Rule 164(2) EPC, and during the related searches possibly a communication under Rule 62a EPC (multiple independent claims) or Rule 63 EPC (no meaningful search)?		be removed by amending the application during the grant proceedings". Also, the correction under Rule 20.5*bis*(d) is not likely to invite a communication under Rule 161(1)/(2) EPC, at least not more likely than a "normal" application. Therefore, the "normal procedures" in the second paragraph of C-III.1.3 refer to procedures followed when any Euro-PCTbis application enters the regional phase. If there is non-searched matter, the guidelines under C-III.3.2 will be followed, i.e. the "normal procedure". The Office stated that there was no need to change the Guidelines. There were no further comments from the SACEPO WP/G members.	

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52	**C**	**III**	**3.1**	C-III, 3.1 first paragraph: For Euro-PCT applications where the EPO acted as ISA or as SISA, the examining division under Rule 164(2) assesses the application documents upon expiry of the six-month time limit set in the communication under Rule 161 and Rule 162, which meanwhile may have been amended.	Suggested amendment: For Euro-PCT applications where the EPO acted as ISA or as SISA, the examining division will under Rule 164(2) and upon expiry of the six-month time limit set in the communication under Rule 161 and Rule 162, assess the application documents, which meanwhile may have been amended.		The Office accepted the suggestion.
53	**C**	**III**	**3.4**	If the applicant disagrees with the finding of lack of unity and has paid further search fees in response to an invitation by the search division under Rule 64(1) or, 164(1), or the examining division under~~or~~ (2), they may request the examining division to review this finding under Rule 64(2) or Rule 164(5) and ~~has requested a~~ to refund the further search fees, ~~the~~ In such cases, the examining division is required to review the validity of the finding of lack of unity (see also F-V, 4 to F-V, 7).	Suggested amendment in line 3: "or the examining division under **164**(2);" ***		The Office agreed to correct the formatting error.
54	**C**	III	4	What about invitations under Rules 161, 162 and 70a?			The Office noted that C-III, 4 addressed the first communication during the examination stage. The list of examining division actions that did not count as a substantive communication was provided to ensure that at least one substantive communication was sent

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							before a summons or a refusal. The Office explained that although invitations under Rules 70a and 161/162 were issued on behalf of the examining division, they had no substantive content and were sent before the division started its substantive work (i.e. before the marker indicating the start of substantive examination was triggered, C-IV, 7.1). Since these communications neither had substantive content, nor were sent after the start of substantive examination, they could not be confused with a first substantive communication from the examining division. This was not the case for the other actions listed, which either had substantive content (ESOP, WO-ISA, Rule 62a/63 invitations) or were generated after the

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							marker was triggered (remaining actions). As a result, there was no need to include the suggested communications in the list. There were no further comments from the SACEPO WP/G members.
55	**C**	IV	7.5	The term "Specifically" appears strange.	Delete "Specifically"		The Office agreed to remove the word.
56	**C**	V	1.1	It would be nice if practice met procedure			The Office acknowledged the comment.
57	**C**	VII	2.4	Inserted phrase "for example clarifying the ranking of the request of oral proceedings with respect to the main and auxiliary requests on file, see E-X, 2.2" is unclear	Replace with the more general "for example clarifying the ranking of requests on file, see E-X, 2.2"		The Office agreed to update the wording to "clarifying the ranking of the request for oral proceedings with respect to the auxiliary requests on file". The Office explained that the key clarification was whether the request for oral proceedings remained valid if one of the auxiliary requests was deemed allowable. That was a potential miscommunication

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							point that often required clarification. There were no further comments from the SACEPO WP/G members.
58	**C**	VII	2.6	OK – it would be nice if the examiners got some training in how to use the shared area. We have had examiners say they have had none.			The Office acknowledged the comment.
59	**C**	IX	1.1	In the interest of concise proceedings, consider whether prosecution of divisional applications could be accelerated where a parent is under opposition or appeal.	WPR?		The Office expressed thanks for the suggestion.

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60	**D**	III	3.3 and 3.4	Abolition of fax; Any transmission by fax is deemed not to have been received	Reasonable Amendment; However, it may also be reasonable to establish a way without a login-requirement; e. g. the EPO Contingency Upload Service as a common way (not only in case of an emergency) to transmit documents to enable simplified operational processes on the users side		See also comments 24 and 62. See also PCT-EPO Guidelines, comment 5. The Office acknowledged the comment and noted the wish for an alternative way of filing documents. It stated that the SACEPO WP/GL meeting was, however, not the appropriate forum for discussing that kind of issue. The SACEPO WP Rules or eSACEPO would be more suitable. The Office however clarified that the EPO Contingency Upload Service could be used at any time, not only in emergencies. There were no further comments from the SACEPO WPG members.
61	**D**	III	5	The prohibition of double patenting under Art. 125 does not constitute a ground for opposition either	Important clarification on the view of the EPO; However, it seems that this was not decided by the EBoA in G4/19 (Reason 4). It was stated that the referred question was restricted to the applicability of the provision during substantive examination proceedings, but		The Office stated that the amendment only clarified that double patenting did not constitute a ground for opposition. It did not imply that the prohibition on double patenting was not applicable in opposition proceedings. In accordance with Art. 101(3) EPC, opposition divisions examined whether amended claims met the requirements of the EPC (see e.g.

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					not that the prohibition itself would be not applicable in opposition proceedings		D-IV, 5.3). This could include the prohibition on double patenting according to Art. 125 EPC. There were no further comments from the SACEPO WPG members.
62	**D**	IV	1.2.1	Abolition of fax	see above		See comments 24 and 60. See also PCT-EPO Guidelines, comment 5.
63	**D**	IV	5.2	process clarified: Invitation to the patent proprietor to submit comments and communication of opposition to the other parties concerned by the formalities officer	TYPO? Should be "or deemed to be not filed opposition" instead of "or not deemed filed opposition"		The Office acknowledged the comment. The section would be checked for coherence and a language check would be carried out. There were no further comments from the SACEPO WPG members.
64	**D**	V	2.2	T219/83 is of wider relevance than just assertions of common general knowledge	Deleted inserted text "regarding common general knowledge"		The Office accepted the comment and proposed replacing "assertions regarding common general knowledge" by the larger term "factual assertions" (which corresponded to the wording used in the headnote of T 219/83). There were no further comments from the SACEPO WPG members.

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65	**D**	V	2.2	Clarification of an inconsistency regarding the burden of proof	However, the first sentence should be clarified, e. g. "If a fact is contested or not plausible, the party making the allegation about the fact must prove it". (Avoids an understanding where the party making the allegation against the fact had the burden of proof)		The Office accepted the proposal.
66	**D**	VI	1	Intended Clarification that inspections are not carried out at the initiative of the opposition division	Reasonable to shift the wording; However, the proposed wording seems to promote the inspection to a principal means which alters the meaning and is not practice at the EPO. Proposal: "The principal means of taking oral evidence will be the hearing of witnesses and parties (see E-IV, 1.6). Further means of taking evidence will be the carrying out of an inspection (see E-IV, 1.2)."		The Office acknowledged the comment. The section would be rephrased. It would be clarified that (i) the division had authority to take oral evidence or evidence by inspection and that (ii) the division was not obliged to take evidence at all if it did not consider it necessary for a decision to be taken. There were no further comments from the SACEPO WPG members.
67	**D**	VI	1	Clarification that inspections are not carried out at the initiative of the opposition division	It is not clear how the power of the EPO in this regard should be restricted unnecessarily if, for example, making an		The Office rejected the proposal. Oppositions were contentious proceedings and parties were free to choose the evidence they wished to

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					inspection would allow a better decision to be issued.		submit. The division would therefore not suggest any means of evidence and the burden of proof for lack of patentability was with the opponents. Only in exceptional cases and where the opposition division's expertise was insufficient might an expert's opinion within the meaning of Article 117(1)e) EPC be requested on the division's own initiative in accordance with Article 114(1) EPC and Rule 121 EPC. There were no further comments from the SACEPO WPG members.
68	**D**	VII	1.2	Deleted item iv does not completely contradict C-IX, 1.1 and acceleration of opposition proceedings may be of benefit.			The Office disagreed. Deleted item (iv) specified that oppositions were to be given priority "if other matters to be dealt with, e.g. divisional applications, hinge[d] upon the final decision concerning the opposition." However, the proceedings for grant of a divisional application were separate and independent from the proceedings concerning the parent application, see C-IX, 1.1. The final decision on an opposition was thus not directly applicable to a pending

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							divisional application, i.e. a divisional application did not "hinge upon" the final decision concerning the parent application. There was thus no reason to accelerate proceedings in case of pending divisional applications. Since no other examples were mentioned in item (iv), the whole item (iv) needed to be deleted.) There were no further comments from the SACEPO WPG members.
69	**D**	VII	1.2	Clarifications regarding acceleration of proceedings Passage contradicting C-IX 1.1 removed (divisionals do not have an influence on priority of opposition proceedings)	Divisionals may be independent from proceedings; However, attention is drawn to G4/19 (s. also present amendments in D-III). Thus, either opposition should have priority or a stay of proceedings of the divisional should be allowed as (in view of G4/19) applicants may have a legitimate interest to develop claims with respect to the parallel proceedings. Also the EPO should have an interest to be able to decide whether to raise the Double Patenting		The Office disagreed for the reasons set out with regard to comment 68. Moreover, proceedings relating to divisional applications were not stayed just because an opposition was pending with regard to a parent application. This did not affect the possibility of raising an objection with regard to the prohibition on double patenting. There were no further comments from the SACEPO WPG members.

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					objection or not (in case of the divisional)		
70	**D**	**VIII**	**1**	In the EPPC-DG1 meeting of 28.02.2024, reference was made of a Best Practice Document on structuring decisions. It is suggested to include relevant information thereof in the Guidelines.	It is suggested to include relevant information from the Best Practice Document on structuring decisions in the Guidelines.	The Office did not agree to this proposal. Relevant information on the structure of decisions is given in E-X, which also applies to opposition. There were no further comments from the SACEPO WP/G members. *It is requested to share the Best Practice Document that was referred to in the EPPC-DG1 meeting of 28.02.2024 with SACEPO WP/G, so that its members can review that document for information for inclusion in the GL. The title "Best Practice" suggest that there are currently good and less good practices, so that there seems to be a need to clarify or improve the practice on decisions as documented in the GL in D-VIII, 1 if specifically on oppositions and/or in E-X.*	The Office had already issued a number of internal documents on specific office actions featuring consolidated information from the Guidelines and internal workflows (e.g. tool information). Their main purpose was to serve as a quick reference guide and for newcomer training. Consequently, the documents were EPO-internal. The document mentioned was essentially based on the Guidelines E-X. The working title "Best Practice" did not imply that there were current practices that needed to be improved. There were no further comments from the SACEPO WPG members.

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71	**D**	**X**	**4.3.4**	"In general there is no need to verify whether the limited claims contravene any of Art. 52 to 57. It may however happen that limitation results in prima facie non-compliance with the patentability criteria, e.g. Art. 53, in which case the examining division will communicate this non-compliance to the requester. Examples: A granted claim directed to a generic plant is limited to a specific plant variety. As the amended claim then relates to a plant variety per se it is excluded from patentability under Art. 53(b) (G 1/98). A claim granted to a device comprising a controlled explosion system is limited to a claim reciting an anti-personnel mine comprising the controlled explosion system, which would be contrary to Art. 53(a)"	In general it is welcomed that the EPO considers non-compliance with Art. 53 EPC in limitation proceedings. However, the given examples raise doubts on the EPO's strategy of examination of Art. 53 / the specification. It is noted that the term "plant variety" was not part of the description of the patent in question of G1/98. However, a major requirement to the examples given in the (present) proposed amendments is that the description exactly defines the subject matter as amended to meet the requirements of Art. 123 EPC. Consequently, if said limitation of the given examples is covered by Art. 123 EPC and therefore allowable in limitation proceedings, the subject matter would have been part of the application documents (e. g. the description stating "the generic plant can be the specific plant variety" or "the		The Office partly endorsed this comment. The information in new section D-X, 4.3.4 was previously contained in former H-IV, 5.4 and thus did not constitute an amendment of the Guidelines. Regarding the substance of the comment, the term "plant variety" was used consistently throughout the Guidelines (see e.g. G-II, 5.2 and G-II, 5.4.1). Moreover, claims directed to a plant or animal could include specific plant or animal varieties mentioned in the description. Such embodiments were therefore not necessarily in contradiction with the claims and could remain in the description. A limitation of a claim directed to a plant or animal to a plant or animal variety during limitation proceedings could therefore fulfil the requirements of Art. 123, in particular Art. 123(3) EPC. The general message given in D-X, 4.3.4 was thus correct and the first example should be kept.

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					explosion system can be an anti-personnel mine"). As such the subject matter contravening Art 53 (under the generic wording, but explicitly mentioned in the description) should have been identified during examination proceedings (before limitation proceedings) which would had to result in amendments waiving that matter (in the description); It is doubted that G1/98 meant to allow a generic patent where an anti-personnel mine is explicitly defined as protected in the description Additionally, it is proposed to prefer G1/98's clear example on a copying machine (item 3.3.3 of G1/98) instead of referring to an explosive which is possibly controversial in its application		In contrast, subject-matter contrary to "ordre public" according to Art. 53(a) and Rule 48(1)(a) EPC, such as the anti-personnel mine mentioned in the second example, should be excised from the description during examination. As a rule, it could not therefore be reinserted in the description or the claims without infringing Art. 123(3) EPC. Since the second example did not therefore reflect the examination practice at the Office, it would be deleted. There were no further comments from the SACEPO WPG members.

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72	**E**	III	8.3.1	See A-VIII, 1.6: The reference to a not-yet published Decision of the President and the amendments to the text suggest that the waiver of the authorization will be extended to legal practitioners (who currently always need an authorization). If that is not the case, the amendments need to be undone.			The Office stated that the decision of the President was now published in OJ EPO 2024, A75. The reference would be included in E-III, 8.3.1
73	**E**	**III**	8.3.1	How do the EPO verify that a legal practitioner is a legal practitioner?			The Office explained that the Legal Division centrally verified the entitlement of any appointed legal practitioner under Article 134(8) EPC and registered them in an internal database. This database was distinct from the list of professional representatives and currently not published. There were no further comments from the SACEPO WP/G members.
74	**E**	V	6	The reason given for deletion of the last paragraph is understood, but I would rather argue that there is no provision in Rule 4 (esp. Rule 4(6)), so that there is a need/wish/preference to have the gap filled in in the Guidelines. As	Maintain "If the proceedings are conducted in a language other than English, French or German and no interpretation is effected, statements are entered in the minutes in the language employed and the		The Office rejected the request to maintain the passage. First, the scenario was rather exceptional. The passage lacked legal basis and was not applied by the Office. There was no justification for the Office to bear the costs of

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				the deleted text codifies existing (and reasonable, fair and appropriate) EPO practice, it is requested to maintain that text	EPO subsequently provides in the minutes a translation into the language of the proceedings."		translation from a non-official language. Contrary to the argument brought forward by the SACEPO WP/G members, Rule 4(5) and (6) EPC did not create such obligation for the Office. There were no further comments from the SACEPO WP/G members.
75	**E**	**VI**	**2.1, 2.2.2**	T 0364/20 states that it deviates from the Guidelines, Sections E-VI-2.1 and E-VI-2.2.2. The board held with reference to R 6/19 that under Article 123(1) EPC, a patent proprietor does not always have the right to amend its patent and that "amendments and their admission into the proceedings shall be in accordance with the provisions of the implementing regulations". The Enlarged Board referred to Rule 81(3) EPC, which gives the opposition division the discretion not to admit claim requests. The Board further stated that it cannot be held that any claim		The Office expressed its thanks for the citation of T 0364/20 and noted that the comment did not include a suggestion. The Office explained that E-VI, 2.2.2 defines "late-filed" in relation to Rule 116(1). However, E-VI, 2.2 and E-VI, 2.2.2 do not state that any claim request submitted after the expiry of the time limit set under Rule 79(1) EPC and before the expiry of the time limit set under Rule 116(1) EPC is automatically admissible. The division may also find such requests inadmissible for example if they consider them to be an abuse of the proceedings	The Office maintained that it did not intend to amend E-VI, 2.1 or E-VI, 2.2.2. In any case, the sections referred to in the comment appeared to be inappropriate since they referred to amendments at a late stage (E-VI, 2.1) and requests filed after the time limit set under Rule 116(1) EPC, while those addressed in T 0364/20 related to requests filed before the time limit set under Rule 116(1) EPC. There were no further comments from the SACEPO WP/G members.

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				request submitted after the expiry of the time limit set under Rule 79(1) EPC and before the expiry of the time limit set under Rule 116(1) EPC is automatically filed in due time and thus was admissibly raised. The board holds that whether or not a claim request filed after the expiry of the time limit set under Rule 79(1) EPC and before the expiry of the time limit set under Rule 116(1) EPC is to be considered to have been filed in due time depends on whether it was submitted as a direct and timely response to a change of the subject of the proceedings introduced by the opponent or the opposition division.		or if they are not properly substantiated. The Office considers this approach appropriate and does not intend to change E-VI, 2.2 and 2.2.2. There were no further comments from the SACEPO WP/G members. *As indicate above, "The division may also find such requests inadmissible for example if they consider them to be an abuse of the proceedings or if they are not properly substantiated.". However, the current text of E-VI, 2.1 says "At a late stage in the proceedings such unforeseeable amendments are subject to the criterion of "clear allowability" (see H-II, 2.7.1)": neither this sentence, not H-II, 2.7.1 mention abuse and substantiation as additional factors in determining on admissibility. It thus seems*	

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						appropriate to amend the text to take this into account.	
76	**E**	**VIII**	**5**	Helpful clarification			The Office acknowledged the positive comment
77	**E**	IX	1	*[Was not in original Excel file despite being amended]* It is a pity that the reference to the Euro-PCT Guide, and the Euro-PCT Guide itself, has been removed/ will be abolished. It was a very well-written Guide, targeting applicants, and providing applicants with the information that they need, rather than information that examiners (the core audience of the GL) need. The Euro-PCT Guide provided a single, easy-to-use, quite complete and still relatively concise reference (especially its pdf and, in the past, printed version) which cannot be replaced by a set of webpages or a set of examiner-directed guidelines as that cannot keep the same type and targeted information as the Euro-PCT Guide has/had. At the same time, it is appreciated that information from the former Euro-PCT Guide has now been			The Office noted the comment and explained that it had shared the complete set of draft Guidelines after becoming aware of some missing sections. The few remaining parts of the Euro-PCT Guide that had not yet been incorporated would be addressed in the 2026 revision cycle (see also comments 80 and 84). The SACEPO WP/G members supported the approach.

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				added to try to alleviate the above drawback and aiming to make GL/PCT-EPO a comprehensive resource on the international phase at the EPO, also for applicants. However, it is noted that the type and detail of information of entry into the EP phase and the procedure shortly thereafter (former part E of the Euro-PCT Guide) has not been integrated in the GL/PCT-EPO nor in the GL/EPO to the degree and level it was provided for in the Euro-PCT Guide.			
78	**E**	**IX**	2.1.2	It is not possible for the EPO to populating the EPC file from their PCT file?			The Office stated that this was not an issue for the Guidelines. It would, however, consider bringing together the information on the documents making up the file for the European phase and how the Office should receive them in the next revision round. The Office went on to explain that, to a large extent, it did populate the file for the European phase: that followed from the information in para. 2.1.3, according to which, since the Office had not exercised

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							the waiver referred to in Art. 20(1)(a) PCT, a copy of the international application as published and the ISR would be furnished by the International Bureau (IB). In the same paragraph it was noted that: – if amendments were made under Art. 19 PCT, the copy transmitted by the IB would include them and any statement made by the applicant in relation to them. – where a demand for international preliminary examination (PCT Chapter II) was filed, the IB would transmit to the EPO as elected Office the international preliminary examination report (IPER), including any annexes; the IB would notify the applicant accordingly; the applicant was not required to file any of those documents with the EPO – moreover, the EPO did not require the applicant to furnish a copy of the international application under Arts. 22 or 39 PCT, even if the IB had not yet furnished a copy under Art. 20 PCT by the time of the

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							application's entry into the European phase (see PCT Gazette) Further, priority documents, if duly filed during the international phase, did not have to be filed. However, in view of the right of applicants to amend upon entry into the European phase and given the obligations as to translations under Rule 159(1)(a) EPC, a complete file could not be populated. There were no further comments from the SACEPO WP/G.
79	**E**	**IX**	2.1.3	Suggest moving and amending the paragraph *Moreover, the application will not be considered as comprised in the state of the art under Art. 54(3) EPC in conjunction with Art. 153(5) and Rule 165 EPC (see G-IV, 5.2).* Since the prior art effect would also be lost if item iii (translation of the drawings) or item iv (translation of the abstract) is not timely filed since all of these are encompassed by the term "translation" and seemingly items v-vii too in relevant cases.	Place at the middle of page 111 before box referring to SACEPO issue 76 *The application will not be considered as comprised in the state of the art under Art. 54(3) EPC in conjunction with Art. 153(5) and Rule 165 EPC (see G-IV, 5.2) if required translations are not timely filed.*		The Office accepted the proposal. The comment related to section 2.1.4 in the latest version (Translation of the international application and further documents that are part of the international publication). Information as to the state-of-the-art effect under Art. 54(3) EPC would be provided directly after item (iv) as items (i)-(iv) were required.

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				QUESTION – is this what was intended?			
80	**E**	**IX**	**2.1.4**		It is suggested to include that an eligible applicant (microenterprise, natural person, non-profit organisation, university or public research organisation) may, when/after entering the European phase, obtain a 30% in the filing fee, search fee, examination fee and designation fee (Rule 7a(3)(a/b/c/d)), as well as a 30% reduction of the previously paid international search fee where the EPO acted as ISA (Rule 7a(3)©)	The Office agreed to include information from OJ EPO 2024, A8 concerning fee-related support measures for small entities in Part A, and include cross-references in Part E. There were no further comments from the SACEPO WP/G members. *1) The sentence "To support small and micro-entities, fee reductions are offered for applicants " has been added in the paragraph relating to the request for examination and the filing fee, but not mentioning renewal fees (which are in the first paragraph of 2.1.4)**. It is suggested to move the new sentence into a new paragraph and to explicitly list all fees that may be eligible for fee reductions.*** *2) As renewal fees were added to the title of 2.1.4, they should*	The Office stated that new sections E-IX, 2.1.5.1, 2.1.5.2, 2.1.5.3 and 2.1.5.4 included a reference to A-X, 9.2, 9.3 and 9.4 to mention the fee reductions for SMEs and micro-entities. The Office further agreed to supplement E-IX, 2.1.5.5 to refer to the fee reductions in relation to the renewal fees as well. There were no further comments from the SACEPO WP/G.

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						also be added to the failure to pay paragraph (add "renewal fee together with the additional fee of R.51(2)") and to add that any associated loss-of-right communication will be send separately from the loss-of-right for the other entry acts. *3) Add the appropriate information from the Euro-PCT Guide to 2.1.4 (as was done to 2.3.8 for claims fees and 2.4.2 for sequence listing). Note that also some more parts of the Euro-PCT Guide, European Phase part, are not yet reflected in the GL/EPO.*	
81	**E**	**IX**	**2.1.4. 1**		It is suggested to add that request for reinstatement under Rule 49.6 PCT is to be filed with the designated office.		The Office rejected the proposal for the following reasons: It assumed that the proposal referred to E-IX, 2.1.4 ("Where the application is deemed to be withdrawn …"). The entire section 2.1 was about requirements to be fulfilled in the procedure before the EPO as designated/elected Office. Moreover, it was clear from the fact that Rule 49.6 PCT referred to

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							Art 22 PCT and to "designated Office" that the request had to be filed with the designated Office. There were no further comments from the SACEPO WP/G members.
82	**E**	**IX**	**2.1.5.6**	E-IX, **2.1.5.6 Non-payment of the filing fee, designation fee, extension/validation fee, search fee, renewal fee and failure to file the request for examination** Suggests in the title and in the first paragraphs that\ the loss-of-rights communication may mention all of these fees if not paid, but that is incorrect: any renewal fee not paid by the 31m date (if due) is NOT listed on this loss of rights communication, but may get a dedicated loss of rights comments after the R.51(2)- period.	Suggesting that all missed acts is "dangerous", as the applicant may reply on it and then not be aware that no renewal fee was paid yet (and then also miss the 6m of 51(2), so that no/no easy remedy is available anymore, only RE in respect of R.51(2)) It seems appropriate to keep the non-payment of the renewal fee out of this section and have a dedicated section for that.		Following further explanation by one of the SACEPO WP/G members, the Office agreed to look into the matter and to adapt the wording as necessary.
83	**E**	IX	2.3.1	*[Was not in original Excel file despite being amended]* Legal practitioners not mentioned	review and extent. E.g., : "If the agents acting in the international phase are professional representatives entitled to practise before the EPO (professional representatives on the list		The Office confirmed that it would look into the matter and adapt the wording as necessary.

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					acc. Art. 134(1) EPC and legal practitioners acc. Art. 134(8) EPC), such representatives are not automatically considered appointed for the European phase" [...] "Applicants, in particular those not resident in an EPC contracting state, are recommended to appoint a professional representative before the EPO or a legal practitioner acc Art. 134(8) EPC in good time, i.e. before initiating proceedings before the EPO as designated/elected Office (see also E-IX, 2.1.2)." [...] "... only through a professional representative entitled to practise before the EPO or a legal practitioner acc Art. 134(8) EPC."		
84	**E**	**IX**	**2.3.11**		It is suggested to include that an eligible applicant (microenterprise, natural person, non-profit organisation, university or	See #77 above. *1) Contrary to what #77 suggests, the information was not added to 2.3.11.*	The Office confirmed that new section E-IX, 2.1.5.5 consolidated the information on renewal fees, including those covered by former E-IX, 2.3.12. It agreed to also

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					public research organisation) may, when/after entering the European phase, obtain a 30% in the designation fee (Rule 7a(3)(d))	*2) Add the appropriate information from the Euro-PCT Guide to 2.3.12*	mention the fee reductions for eligible applicants in new section E-IX, 2.3.12. There were no further comments from the SACEPO WP/G members.
85	**E**	**IX**	**2.3.12**		It is suggested to include that an eligible applicant (microenterprise, natural person, non-profit organisation, university or public research organisation) may, when/after entering the European phase, obtain a 30% in renewal fees (Rule 7a(3)(f))	See #77 above. *1) Contrary to what #77 suggests, the information was not added to 2.3.12.* *2) Add the appropriate information from the Euro-PCT Guide to 2.3.12*	See comment 84.
86	**E**	IX	2.8	*[Was not in original Excel file despite being amended]* Reference to Rule 70(2) missing, and its waiver	Add underlined parts: "Furthermore, <u>if the applicant did not waive the Rule 70(2) communication and</u> if a request for examination is filed before the EPO has, where applicable, sent the supplementary European search report to the applicants, examination will start only upon receipt of an indication from them that they wish to proceed further with		The Office agreed to add a reference to Rule 70(2) EPC and its waiver (see also Euro-PCT Guide 5.1.033). The invitation under Rule 70a(2) EPC to inform the EPO whether, upon consideration of the supplementary European search report, examination was (still) wanted, was not issued if the applicant had validly waived the Rule 70a(2) EPC communication (see E-IX 3.1. and 3.2)

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					the application (Rule 70(2) EPC) and, if required, a response to the extended European search report (see E-IX, 2.5.3) "		There were no further comments from the SACEPO WP/G.
87	**E**	IX	3.3.3	Just as a side note, in E-IX 3.3.3, I find it interesting that this passage is deleted, because "it is expected that no applications are pending for which R.161 was issued before 1.4.2010". I'm quite sure I have one or two such applications...			The Office stated that the comment did not seem to suggest a change and proposed that the users concerned communicate the application numbers of these cases so that a decision could be taken as to whether the section had to be kept. There were no further comments from the SACEPO WP/G.
88	**E**	**XII**	**7.3**	**Comment 111 of the SACEPO WP/G meeting on 10.10.2023 (repeated in the new comments)** E-XII, 7.3 The last paragraph states: *The request for reimbursement of the appeal fee will be remitted to the board of appeal only if it was filed together with the appeal (see G 3/03 and T 21/02).* This would appear to be incorrect.	In other words, the last paragraph of Guidelines E-XII, 7.3 should read: *A request for reimbursement of the appeal fee will be remitted to the board of appeal **only if it was filed before the contested decision had been rectified under Article 109(1) EPC** (see G 3/03 and T 21/02).*	The Office concluded that it will consider clarifying the relevant section. It explained that the time of filing "before the contested decision had been rectified" is not precise enough and may lead to the request for reimbursement of the appeal fee overlapping with the rectified decision. The current	After careful analysis, the Office concluded that the section should not be amended. It would be impossible to find another sufficiently precise solution that would equally ensure that the request would be considered if filed shortly before/at the time of issuing the decision. The proposal that the request could be filed "as long as the decision [had] not been passed to the Office's postal service" did

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				T21/02 states that where a request for reimbursement of the appeal fee pursuant to Rule 67 EPC was submitted only after the contested decision had been rectified under Article 109(1) EPC, no legal basis exists for the Board of Appeal to decide on that request. However, it does not state that the request cannot be submitted after the appeal, as long as it is on file before a decision has been taken as to the rectification.		formulation provides more legal certainty. The SACEPO WP/G members argued that T 21/02 provides for a precise time limit to file a request for reimbursement of the appeal fee, i.e. as long as the appeal is on file before taking the decision on rectification. The Office explained that this needs to be translated in practice into a precise time limit in the proceedings to avoid confusion. The SACEPO WP/G members suggested that the Office follow a procedure analogous to examination proceedings, i.e. as long as the decision has not been passed to the Office's postal service. The Office will look into the matter and consider whether that section may be clarified. *No amendments were made (yet?). Clarification is requested as to why not or why not yet?*	not match the electronic workflows and notification in place at the EPO. SACEPO WP/G suggested that the reference to "the date on which decision is handed over to the EPO's internal postal service for transmittal to the parties (see G 12/91)" in other parts of GL as applied in the grant proceedings should be clarified with regard to the electronic notification workflows. The Office agreed to look into the matter in the next revision cycle. There were no further comments from the SACEPO WP/G members.

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89	**E**	XII	7.4.2	This section was still not amended despite comments from SACEPO WP/G in respect of the Art. 123(2) passage, where the Board has repeatedly indicated that an amendment overcoming the grounds for refusal should lead to interlocutory revision, also if Art. 123(2) issues are introduced by that amendment. Cited from 25th SACEPO WP/G E-XII, 7.4.2: E-XII, 7.4.2 Amended main/single request filed with the appeal The section provides: "If amendments made to the independent claims clearly do not meet the requirements of Art. 123(2), interlocutory revision is not granted, but the division sends the file to the boards of appeal." The Boards of Appeal have explicitly addressed this section and indicated that this is incorrect: In T 682/22 of 20.7.2022, the applicant appealed with a sole request in which the applicant	[as was submitted at 25th SACEPO WP/G:) The Guidelines section need to be amended by replacing the cited paragraph with: "Interlocutory revision must be granted if the amendments clearly overcome the grounds for refusal, even if further new objections arise, i.e. irrespective of whether new objections under Article 123(2) EPC or whether previous objections referenced in the appealed decision were raised by the first-instance department"		The Office stated that this comment had already been submitted. As previously explained, it would continue to monitor the relevant case law before changing the long-standing practice. One SACEPO WP/G member proposed that the section be amended to remove an inconsistency between the Guidelines and established case law, as suggested in point 2.4.3 of T 682/22. There were no further comments from the SACEPO WP/G.

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				amended the independent claims. The amendments included the addition of a feature to the independent claims which, according to a positive statement in the annex to the summons for oral proceedings before the examining division, made the claim novel. Nevertheless, interlocutory revision was not granted, (presumably) because the ED considered further amendments to extend subject-matter, but -in accordance with Art.109(2), the reasons were not given. The Board of Appeal discussed the breath and the established case law of Art.109(1) EPC, as well as the Guidelines (E-XII, section 7.1, 4th paragraph; r E-XII, section 7.4.2, 1st sentence; E-XII, section 7.4.2, 6th paragraph), and (as the deciding Board in T 1060/13, reason 4)considered it appropriate to point out that there are (still) some significant inconsistencies between the current Guidelines and the established case law as to the interpretation of Article 109(1) EPC. The Board concluded that			

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				"interlocutory revision must be granted if the amendments clearly overcome the grounds for refusal, even if further new objections arise, i.e. irrespective of whether new objections under Article 123(2) EPC or whether previous objections referenced in the appealed decision were raised by the first-instance department" (reason 2.4.3) and noted that "**the established case law (...) and the current Guidelines are inconsistent with each other."** Reason 2.4.3 concludes with: "Moreover, in arriving at a decision on granting interlocutory revision, according to those Guidelines (cf. E-XII, section 7.4.2, 5th paragraph), the examiner is supposed to take into account all the grounds mentioned in the original decision, including the main or supporting arguments already raised in previous objections to patentability to which the applicant has had an opportunity to respond and to which reference is made in the			

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				grounds of refusal (e.g. objections mentioned in previous communications, during personal consultation or at oral proceedings). Conversely, on the basis of the established case law, **interlocutory revision must be granted if the amendments clearly overcome the grounds for refusal, even if further new objections arise, i.e. irrespective of whether new objections under Article 123(2) EPC or whether previous objections referenced in the appealed decision were raised by the first-instance department."** The Board conclude that, in the current case, "the appeal is "well founded" within the meaning of Article 109(1) EPC. There is also no apparent reason to contest that the appeal is "admissible" within the meaning of Article 109(1) EPC. The examining division should therefore have indeed rectified its decision and continued with the examination of compliance with the requirements of the EPC.			

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				However, for whatever reasons, they did not do so.			

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90	**F**	II	2.3	approved			The Office acknowledged the positive comment.
91	**F**	III	3	Second § "whole range claimed" is replaced with "whole scope of the claim"	Corresponding amendments should be made in III-1, 3rd §, last two lines.		The Office accepted the proposal.
92	**F**	III	3	The change of wording has drawn attention to an example that seems unhelpful, because it specifically refers to whether training datasets are disclosed in enough detail to reproduce the technical effect over the whole scope of the claim, and implies that an absence of a detailed description of training datasets will always be problematic for AI cases. That is not correct. In many cases, an example dataset will be sufficient, or no specific dataset may be needed, for a skilled person to reproduce an invention involving a described mathematical method and a method of training - e.g. for a machine learning system. T161/18 and T1191/19 do not imply that every ML application will need a description of multiple training	"Another example can be found in the field of artificial intelligence if the mathematical methods and training **of a machine learning system** are disclosed in insufficient detail **for a skilled person to understand how** to reproduce the technical effect~~.~~ ~~Such a lack of detail may result in a disclosure that is more like an invitation to a research programme~~ (see also G-II, 3.3.1)."		The Office proposed changing the last two sentences to "Another example can be found in the field of artificial intelligence if the mathematical methods and training datasets are disclosed in insufficient detail for the skilled person to be able to reproduce the technical effect without undue burden using common general knowledge over the whole scope of the claim (see also G-II, 3.3.1)". The Office agreed that a reference to the skilled person was missing, especially when sufficiency of AI was discussed, and also agreed that more established wording as in G-II, 3.3.1 would be more suitable. The SACEPO WP/G members welcomed the consideration of the skilled person in the text but cautioned that care should be taken to avoid generalising the need for training

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				datasets. The problem for T161/18 was a lack of detail for the alleged point of novelty (training an ANN). The reference by the Board of Appeal in T1191/19 to a specific application being so lacking in implementation detail that it was "more like an invitation to a research programme" was a case-specific comment that tells us nothing about the threshold for sufficiency of description for AI cases. Including this case-specific criticism as a general statement in the guidelines seems inappropriate.			datasets in AI cases. The Office explained that that was a specific example linked to the technical effect being reproducible by the skilled person and could be reconsidered in future revisions.
93	**F**	**IV**	**1**	EPO is not proposing to revise this section on clarity in the Summer Draft. I'm also not aware of any new 'fundamental' case law in this area either in the last year. However, as a new WP-G member I'm interested to propose a revision to address concerns about the way EPC practice has developed incrementally (I might say, creepingly) in this area. My perception is that these days broad claims are routinely objected to under A84, even when	Part F-IV, 1 Normal for claims to define the matter for which protection is sought more broadly than the embodiments described in the specification		The Office noted the users' position on the need to revise the Guidelines to remind examiners that broad claims were normal and should not be automatically subject to objections under Article 84. The Office stated that no changes would be made in the current cycle. A workshop on clarity was planned and could give rise to further discussions. There were no further comments from the SACEPO WP/G.

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				they are clear in the sense I believe was intended by A84, which is that third parties can – without undue burden – ascertain by reading the wording of the claim (normally on its own) whether or not their products or methods are inside the claim or outside. The GLs don't seem to spell this out. This leads to other ideas in the examiner community about what 'clear' means. Some examiners seem suspicious of claims which are broader than the embodiments (hence the "normal" suggestion) and/or think the claim must explain how a function is carried out (in the manner of an instruction manual) rather than just what function is carried out. I don't think either of these things means a claim lacks clarity in the sense intended by A84.			
94	**F**	**IV**	**1**	F-IV, 1 notes that "Since the extent of the protection conferred by a European patent or application is determined by the claims (interpreted with the help of the description and drawings), clarity of the claims is of the	Suggest adding to this: "Since the extent of the protection conferred by a European patent or application is determined by the claims (interpreted with the help of the description and drawings),		The Office stated is that the amendment could not be considered in the first section of Chap IV, which just spelt out the content of Art. 84 and the consequences for the extent of the protection. The knowledge and understanding of the skilled person

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				utmost importance (see also F-IV, 4)." This statement is correct, but it is also critically important for Applicants to maximize their claim scope, and clarity objections should not be raised merely because a narrower claim would have even greater clarity than a claim that is already clear to a skilled person. It is essential for clarity to be assessed with the knowledge of a skilled person , as noted in F-IV, 4.1. The suggestion in the right hand column is intended to be consistent with F-IV, 4.1.	clarity of the claims is of the utmost importance but clarity must be assessed with the knowledge and understanding of a skilled person and objections raised only when there is a genuine lack of clarity (see also F-IV, 4)."		were acknowledged through the reference to F-IV,4. There were no further comments from the SACEPO WPG members.
95	**F**	**IV**	**4.3 (iii)**	– Procedural aspects and examples See paragraph (i) above	– Procedural aspects and examples See paragraph (i) **(F.IV.4.3.)** above	The Office agreed to the proposal. *Please use correct formatting to F-IV, 4.3*	The Office noted the comment; the formatting would be adapted accordingly.
96	**F**	V	3	(i) Determining the common matter, added sentence in § 7: The added is rather strange: *The **means** for achieving the technical effect, which derives from the corresponding features,*			The Office agreed that the current wording could be improved. The Office therefore suggested rewording/restructuring the section as follows:

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				become part of the common matter. *However, the **specific means** to achieve this technical effect are considered as part of the remaining technical features (emphasis added).* What is the difference between "means" and "specific means"?			"The division will then proceed to analyse if any other common matter is present among the claims, i.e. identify, in the light of the application as a whole, any technical features of the claims that are the same or corresponding. ~~**The means for achieving the technical effect, which derives from the corresponding features, become part of the common matter. However, the specific means to achieve this technical effect are considered as part of the remaining technical features, see the example provided below.**~~ When determining whether technical features are corresponding, it is important that the technical problems solved, which are associated with the technical effects, not be formulated too narrowly or too generally. If the technical problems are too narrow when they could have been more general, they may have nothing in common, leading to the possibly wrong conclusion that technical features are not corresponding. If they are too general when they could have been narrower, the common aspects of the problem may be known, also leading to

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							the possibly wrong conclusion that there is a lack of unity. **<u>The means for achieving the technical effect, which derives from the corresponding features, become part of the common matter. However, the specific means to achieve this technical effect are considered as part of the remaining technical features.</u>** For example, a membrane and a diaphragm may achieve the technical effect of 'providing resilience' and, hence, may be corresponding features. In this case, the feature of 'means for providing resilience' becomes part of the common matter whereas the specific means for providing resilience, i.e. a membrane and a diaphragm, will be the remaining technical features." There were no further comments from the SACEPO WP/G.

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97	**G**	**II**	**3.3**	approved			The Office acknowledged the positive comment.
98	**G**	**II**	**3.3.1**	This section starts with: "Artificial intelligence and machine learning **are based on** computational models and algorithms for classification, clustering, regression and dimensionality reduction, such as neural networks, genetic algorithms, support 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" based on training data. Hence, the guidance provided in G-II, 3.3 generally applies also to such computational models and algorithm." (emphasis added) We believe that the wording is too strict and has the risk to introduce an a priori bias when assessing an AI or ML invention as to it necessarily being non-technical,	We therefor suggest to amend the opening paragraph to read: "Artificial intelligence and machine learning may use [~~are based on~~] computational models and algorithms for classification, clustering, regression and dimensionality reduction, such as [~~neural networks,~~] genetic algorithms, support vector machines, k-means, kernel regression and discriminant analysis. Such computational models and algorithms **may** be as such [~~are per se~~] of an abstract mathematical nature [~~, irrespective of whether they can be "trained" based on training data~~]. In this case [~~Hence~~], the guidance provided in G II, 3.3 would generally apply [~~applies~~] also to inventions using such computational models and	The SACEPO WP/G members expressed their concern that the list in the first paragraph of G-II.3.3.1 gives the impression of being exhaustive, which is not true, especially since AI-related technology is growing rapidly. They also pointed out that whether AI/ML are based on mathematical models or not is irrelevant, as the character of the invention as a whole has to be examined, not what it is based on. The Office agreed that other algorithms or methods could in future be regarded as AI and take these points on board; clarification of the Guidelines will be considered. The SACEPO WP/G members also expressed their concern that readers may be biased against the technical character of AI-related methods, and a	The Office proposed amending the opening paragraph using the following wording: "Artificial intelligence and machine learning are 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 of an abstract mathematical nature, irrespective of whether they can be 'trained' using training data. However, their usage does not in itself render inventions related to artificial intelligence and 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 and 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

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				while that is not necessarily so: they may well be technical, and shall thus not be assessed with (a risk to) such a priori bias but shall be assesses as any invention, as also any other CII invention or any invention based on mathematical model is to be carefully assessed as to technical character (as is implicitly indicated by the reference to G-II, 3.3 - however, the relevance of this reference may be overlooked when the paragraph is read with an a priori bias of non-technicality. In particular, we believe that the terms "**are** based on" and "**are** per se" are too absolute and we propose to amend these so that the (risk to a) bias to non-technicality is removed and the examiner is directed to carefully assess the presence of technical character of the lack thereof, using the ""whole-claim approach" as for any invention where Art. 52(2) exclusions may play a role. For this same reason, we propose to not only explicitly address the reasons for possible exclusion, but to also explicitly	algorithms. However, the mere usage of computational models and algorithms, even if excluded as such, does not by itself render artificial intelligence and machine learning excluded subject matter. Artificial intelligence and machine learning **may have technical character** either as such or by contributing to the technical character of an invention." The sentence that was added and starts with "Namely" gives the impression that the sentence provides an exhaustive links of inventions, which is not correct. We suggest to replace "namely" by "for example".	reader who is not an expert in the field may misinterpret the guidance in the first paragraph of G-II.3.3.1 and not assess the technical character of an AI-related invention properly. The proposed text, according to one SACEPO WP/G member, was the result of a long discussion in a larger user group, and it was not easy to arrive at that balanced proposal. The Office will consider these new comments carefully and come back to this issue in the next SACEPO WP/G in October.	has technical character as a whole and is thus not excluded from patentability under Art. 52(2) or (3). Then, the computational models and algorithms themselves may contribute to the technical character of the invention if they contribute to a technical solution of a technical problem, for example by being applied in a field of technology and/or by being adapted to a specific technical implementation." In the proposed wording, the word "namely" was replaced with "this means that" to clarify that the conditions for patentability analysed in G-II, 3.3 applied to AI-related applications, which was the correct framework for such applications. The SACEPO WP/G members were in broad agreement with the proposal but suggested some edits which the Office agreed to consider.

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				address why the invention may not be included, by explicitly indicating that AI and ML may have technical character as such or may contribute thereto.			
99	**G**	II	3.3.1	It is much appreciated that the concerns raised by the EPPC ICT Group of epi in item 113 of27th SACEPO WP/G have been considered and resulted in a draft amended text. However, the draft amendments take away the concern only in part as it still uses some very "absolute" terms. In particular, it is requested to replace the "are pre se" by "may be" as well as to -in order to undoubtfully prevent bias- include the earlier suggested phrase "However, the mere usage of computational models and algorithms, even if excluded as such, does not by itself render artificial intelligence and machine learning excluded subject matter".	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 whether they can be "trained" using training data. However, the mere usage of computational models and algorithms, even if excluded as such, does not by itself render artificial intelligence and machine		The Office explained that computational models and algorithms being of an abstract mathematical nature could not be regarded as conditional; therefore, replacing "are per se" with "may per se be" could not be considered because it would leave open the possibility of mathematical algorithms being as such technical. The issue here was what the conditions were for abstract mathematical methods to be patentable, and those were analysed in that paragraph. Therefore, an edited version of the underlined sentence had been introduced, namely "However, their usage does not in itself render inventions related to artificial intelligence and machine learning non-patentable".

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					learning excluded subject matter. Hence, the guidance provided in G-II, 3.3 generally applies to inventions that use them. Namely, if a claim of an invention related to artificial intelligence and 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 Art. 52(3). The computational models and algorithms themselves may contribute to the technical character of the invention when they contribute to provide a technical solution to a technical problem by their application to a field of technology and/or by being adapted to a specific technical implementation.		The addition of this sentence was welcomed by the SACEPO WP/G members. The Office agreed to amend the last sentence to "if they contribute to a technical solution", as per the suggestion.
100	**G**	II	3.3.1	The proposed additional wording at the end of the first paragraph of G-II, 3.3.1 is an improvement over the	Replace text in italics in column D with wording more consistent with the first		The Office agreed to introduce the phrase "However, their usage does not in itself render inventions

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				2024 version, because the wording added at the end of that paragraph increases consistency with G-II, 3.3, BUT a number of members of SACEPO WPG noted in the April 2024 meeting that the initial wording of the section is unhelpful because it defines AI in a narrow way by reference to example mathematical methods and then notes that those examples are abstract. It also groups a trained ANN with abstract algorithms, which seems inconsistent with the positive comments later in G-II, 3.3.1 that generating a training set and training may contribute to technical character. These problems have been retained in the draft 2025 Guidelines: "Artificial intelligence and machine learning are 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 of an abstract mathematical nature,	sentence of G II, 3.3: "Artificial intelligence is being used to solve technical problems in all fields of technology. Artificial intelligence and machine learning may use computational models and algorithms of an abstract mathematical nature, such as genetic algorithms, support vector machines, k-means, kernel regression and discriminant analysis. However, AI systems and solutions to technical problems that use AI will often be patentable. Hence, the guidance in G-II, 3.3 generally applies to inventions using such computational models and algorithms. Namely, if a claim for an invention...[continues]."		related to artificial intelligence and machine learning non-patentable" which had the same effect as "However, AI systems and solutions to technical problems that use AI will often be patentable" in the context of the paragraph. There were no further comments from the SACEPO WP/G.

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				irrespective of whether they can be "trained" using training data. Hence, the guidance provided in G-II, 3.3 generally applies to inventions that use them. Namely, if a claim of an invention...[continues]."			
101	**G**	**II**	**4.2**	Point 95 of 25th SACEPO. It refers to adoption of the description "*Subject-matter in the description regarded as an exception to patentability needs to be excised, reworded such that it does not fall under the exceptions to patentability or prominently marked as not being according to the claimed invention (see F-IV, 4.3). For the latter case, in accordance with Art. 53(c the description may for example be amended by adding an indication as follows: "The references to the methods of treatment by therapy or surgery or in vivo diagnosis methods in examples X, Y and Z of this description are to be interpreted as references to compounds, pharmaceutical compositions and*	At least adding " unless it is already clear from the context that such excluded matter is not forming part of the claimed subject matter, for example by simply stating that ***methods of treatment by therapy or surgery or in vivo diagnosis methods are not claimed***.	The Office did not agree to the proposal. The Office notes that any amendment to the passage on adaptation of the description will be deferred until the referral to the Enlarged Board of Appeal has been issued and decided. There were no further comments from the SACEPO WP/G members. The issue of the adoption of the description is shifted to the future since the "expected referral" has still not been made. Can the EPO provide any status of this issue.	The Office stated that the case was still pending before the Boards of Appeal, and the Office had no information on the next steps intended by the competent board. There were no further comments from the SACEPO WP/G.

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

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					forming part of the claimed subject matter. ~~For the latter case~~, In accordance with Art. 53(c), the description may for example be amended by adding an indication as follows: "The references to the methods of treatment by therapy or surgery or in vivo diagnosis methods in examples X, Y and Z of this description are to be interpreted as references to compounds, pharmaceutical compositions and medicaments of the present invention for use in those methods".		
102	**G**	**IV**	**5.4**	approved			The Office acknowledged the positive comment.
103	**G**	**VI**	**7 and 7.1**	In G-VI, 7, end points are treated as examples. "Serious contemplating" and "Purposive selection" should no longer be used as a test for novelty. The "Gold standard" test is to be applied only. This is not consistent with the new text in G-IV, 7 and especially the paragraph: A claimed selection of a sub-range is not considered novel if	Bee consistent. E.G. by amending G-VI, 7.1 to: The skilled person knows that numerical values relating to measurements are subject to measurement errors which place limits on their accuracy. For this reason, the general convention in the scientific and technical literature is applied: the last decimal place of a numerical value indicates its degree of accuracy,	The Office did not agree to the proposal. The SACEPO WP/G members stated that selection inventions should also be assessed according to the gold standard and references to "sufficiently far removed" and "seriously contemplating" be removed. This cannot be done yet, as the Boards themselves still use these criteria. So far only one	The Office stated that it had again scrutinised decisions concerning selection inventions. The following decisions had been published on or after January 2023 still using the criteria as set out in the Guidelines: T 1543/21, 3.2.04, Reasons 2.7 T 1137/20, 3.2.03, Reasons 5.3 T 1477/21, 3.2.07, Reasons 1.6 for Art. 123(2) EPC T 1371/20, 3.2.01, Reasons 3.10 T 1356/21, 3.3.07, Reasons 2.4

	Part G			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
				any specific value disclosed in the prior art falls within the claimed range, irrespective of whether the value stems from a concrete example or is disclosed as the endpoint of a range. Imo endpoints that have no basis in the description cannot be treated as examples. In particular if there is the disclosure does not provide sufficient support for the whole range. We retain this comments and will bring further submission on this in the spring 2025 revision.	**irrespective of whether the value stems from a concrete example or is disclosed as the endpoint of a range**. Where no other error margins are given, the maximum margin is ascertained by applying the rounding-off convention to the last decimal place (see T 175/97), e.g. for a measurement of 3.5 cm, the error margin is 3.45-3.54. When interpreting ranges of values in patent specifications, the skilled person proceeds on the same basis.	isolated decision (T 1688/20) that requires application of the gold standard has been published. In contrast, in 2022 were there six decisions by Boards still applying these two criteria and confirming the current practice of the Office: T 1695/17, Reasons 4 T 1516/18, Reasons 5.2.2, 5.2.3 T 1683/18, Reasons 4.4.2 T 2250/18, Reasons 3.1 T 1096/19, Reasons 5.1.2 - 5.1.3 T 1194/20, Reasons 3.3.1 The case law will be monitored. There were no further comments from the SACEPO WP/G members.	T 1357/21, 3.3.07, Reasons 2.4 (identical to T 1356/21) T 2669/19, 3.4.02, Reasons 4.2.3 On the other hand, the Office was aware of T 989/22 and T 337/22, which applied the gold standard. Given the large number of decisions still confirming the current, long-standing practice, it did not seem appropriate to amend the section for the gold standard at the present stage in the 2025 Guidelines. The Office confirmed that it would continue to monitor the case law. Re endpoints (comment in red): if a disclosure was not enabled, then G-IV, 2 (enabling disclosure) applied. Therefore, the Office did not see any need to amend the Guidelines. There were no further comments from the SACEPO WP/G.

	Part G			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
104	**G**	**VII**	**5.1**	approved			The Office acknowledged the positive comment.
105	**G**	**VII**	**5.2**	Approved, but perhaps refer to G2/21 Headnote II and reason 72 (which is merely summarised in reasons 93,94 and the Headnote) and mention that "encompassed by the technical teaching" covers disclosed or derivable.	"...G 2/21 Headnote II, reason 72). This means that the effect need not be literally disclosed in the application as originally filed (T 116/18 reasons 11.10). Furthermore, the two criteria of "encompassed by the technical teaching" (disclosed or derivable) and "embodied by the same originally disclosed invention" need to be met cumulatively (T 1989/19 reasons 3.3.8)."		The Office acknowledged the proposal but was of the opinion that the current wording clearly taught that "encompassed by the technical teaching" included direct/explicit disclosure as well as derivable/implicit disclosure. The section had been amended with the sentence: "*This means that the effect need not be literally disclosed in the application as originally filed (T 116/18, Reasons 11.10)*." There were no further comments from the SACEPO WP/G.
106	**G**	**VII**	**11**	The current wording: "When effects are cited in support of inventive step it needs to be ensured that the effect in question is encompassed by the technical teaching and embodied by the same originally disclosed invention (see G-VI, 5.2)." omits the reference to technical effects that are derivable from the application as filed but which are not explicitly mentioned, which G-VII, 5.2 tries to address by reference to T116/18. It would be	This could be changed to: "When effects are cited in support of inventive step it needs to be ensured that the effect in question is encompassed by or derivable from the technical teaching and embodied by the same originally disclosed invention, but not necessarily literally disclosed (see G-VII, 5.2)."		The Office deliberately added a reference to G-VII, 5.2 to define the meaning of "encompassed" in that context. Therefore, the Office did not see a need to repeat the wording of G-VII, 5.2. There were no further comments from the SACEPO WP/G.

	Part G			Comment	Suggested improvement	Consultation results SACEPO WPG meeting 25 April 2024 (as applicable)	Consultation results
				helpful to make sure G-VII, 11 is consistent			
107	**G**	**VII**	**12**	approved			The Office acknowledged the positive comment.

	Part H			Comment	Suggested improvement	Consultation results
108	**H**			Where is the French version? The Office promised to review it (comment 134 from 27th SACEPO WPG)		As promised in the 27th SACEPO WP/G meeting of 25 April 2024, the Office was reviewing the French translation. This review was currently in progress. There were no further comments from the SACEPO WPG members.
109	**H**	II	3,1	The addition of "Amendments of the claims in opposition proceedings may require amendments of the description (see D-V, 5)." goes against the agreement that no amendments would be made to the Guidelines relating to the claims-description-correspondence/amendments until a referral was done and decided upon.		The Office stated that amendments in H-II, 3.1 concerning the adaptation of the description did not add or remove any content (the content was already present in the Guidelines 2024, D-V, 5, F-IV, 4.3 and H-II, 3.2). Those amendments had been discussed with and unanimously endorsed by the SACEPO members in the 27th SACEPO WP/G meeting of 25 April 2024. During the 28th SACEPO WP/G meeting on 9 October 2024, one SACEPO member suggested removing the reference to T 223/97. However, another member proposed rather maintaining references to decisions of the Boards of Appeal and, in general, inserting more references to such decisions. The Office thus suggested maintaining the reference to T 223/97. There were no further comments from the SACEPO WPG members.
110	**H**	III	2.3	Deletion of the possibility of filing amendments using copies.	The comments provided by the EPO indicate that this procedure is outdated and rarely used. Even if it	The Office stated that the Guidelines could not cover all possibilities (see Guidelines General Part I.3, fourth paragraph). Section H-III, 2.3

	Part H			Comment	Suggested improvement	Consultation results
					is rarely used, it could still (in limited circumstances) be useful.	was considered no longer relevant, in particular in view of digitalisation and the availability of new tools for collaboration (e.g. MyEPO; see Guidelines C-VII, 2.1, first paragraph). There were no further comments from the SACEPO WPG members.
111	**H**	IV	5	Why delete a useful summary of the different requirements that may need to be satisfied depending on procedural status.	Reinstate	The Office clarified that Part H of the Guidelines dealt with aspects relating to amendments. In order to avoid redundant information in the Guidelines, the content of the section had been moved to the appropriate part (limitation proceedings). There were no further comments from the SACEPO WPG members.
112	**H**	VI	2.2	"request for correction must be filed without undue delay" It does not make sense that a corrected description needs to be filed each time a simple misspelling or similar is discovered. For procedural efficiency, such amendments may conveniently be made once the claims have been agreed upon e.g. together with adaption of the description.	We suggest to add that: Corrections of clerical or grammatical errors may be corrected at any time up to payment of the granting fee.	The Office explained that the requirement that the request be filed without undue delay derived from G 1/12 (Reasons 37) and the case law cited therein. It also appeared in the present version of this section. It did not per se limit the possibility for requesting corrections under Rule 139 EPC. A correction under Rule 139 EPC could be requested at any time as long as proceedings before the EPO were pending. The requirement to request correction without "undue delay" was linked to the discovery of an error. Thus, applicants could still request a correction of the description in accordance with the requirements in the Guidelines if they

	Part H			Comment	Suggested improvement	Consultation results
						became aware of an error at late stages of the proceedings. There were no further comments from the SACEPO WPG members.
113	**H**	VI	2.2	Change in the description of the requirements for corrections to be allowable. The new wording of the GL specifies that the "requester bears the burden of proof, which must be a heavy one"	The requirements are stricter than those identified before. However, these are those considered as "developed by a large body of case law" in G01/12. Thus, it is difficult for us to contest the amendment (though I think I would have done it, if it had been possible).	The comment did not include any suggestion or objection and thus no reply from the Office was deemed necessary. There were no further comments from the SACEPO WPG members.