

## UP Guidelines 2026

## Consultation results of the 29th SACEPO WP/G meeting

#	Chapter / section	Comment	Suggestion	Consultation results
0	General comment	<p><i>Despite expectations and despite the pre-publication of the UP Guidelines being in pdf format, contrary to the other two Guidelines, and without prior announcement to SACEPO WP/G, the <a href="#">official version of the UP Guidelines (April 2025)</a> are only published in HTML and not also in pdf. It is requested and strongly insisted to also publish a pdf version.</i></p> <p>We note that it was announced in <a href="#">OJ 2025, A6</a>. However, without any reasons for only publishing on HTML format</p>	The official version of the official version of the UP Guidelines (April 2025) should be published in pdf format in addition to the HTML format.	<p>The Office disagreed.</p> <p>The EPO intended to discontinue the publication of all Guidelines in PDF as from 2026. The EPO decided to anticipate such development and publish the UP Guidelines only in HTML. This had been mentioned at the October session of the SACEPO WP Guidelines (please see EPO reply to Comment 13 of the epi comments on the summer draft of the 2025 UP Guidelines).</p>
1	General comment	the references to specific sections of EPC guidelines are not clickable but links to EPC guidelines in general are	to make the links to specific sections of EPC guidelines clickable as well	<p>The Office agreed to the proposal.</p> <p>This has been fixed with the publication. The links to EPGLs were not clickable in the pre-publication as they referred to the pre-published EPC GL 2025 version.</p>
2	General comment	<p>The possibility of filing an action at the UPC is sometimes not mentioned, sometimes mentioned but not in a harmonised way: always with mention of R23 UPR and Art 32(1)(i) UPCA and a reference to 7.7.1. The RoP UPC should only be mentioned in 7.7.1 (with rule numbers, not as Section 6).</p> <p>Applies to 2.6, 3.1.7.3, 3.2.3.3 and 4.4</p>	Mention the possibility: "Actions against decisions of the UPP Division may be brought before the UPC (R. 23 UPR and Art. 32(1)(i) UPCA; see 7.7.1).	<p>The Office agreed to the proposal.</p> <p>Wording was aligned in the document.</p>

	Chapter 1			
3	1.1	"... follows that no update can ever claim to be complete" the sentence undermines the Guidelines. The reference in section 1.3 "The Guidelines cannot cover all possible occurrences and exceptions in every detail but must be regarded as general instructions that may need to be adapted to the individual case." conveys the message in an appropriate manner.	Delete "follows that no update can ever claim to be complete"	The Office disagreed.  The wording is harmonised with the EPC Guidelines and should remain as is. Further, "no update can ever be complete" refers to potential gaps in incorporating the latest legal developments, while "the Guidelines cannot cover all possible occurrences [...]" addresses the level of detail.
4	1.1	"to bring the text into line with legal developments regarding the Unitary Patent and EPO practice as these continue to evolve" (emphasis added) Clear tautology, whatever "these" refers to.	Delete "as these continue to evolve".	The Office agreed to the proposal.  The wording was reviewed and adapted accordingly.
5	1.1	"no update can ever claim to be complete" I would argue that an update has to be complete but that unintended omissions can be excused.	Delete "It follows that no update can ever claim to be complete."	The Office disagreed.  See comment 3.  As a side remark: the Guidelines reflect the legal situation as of 1 December of the previous year. Subsequent developments can only be incorporated in the next edition.
6	1.1	"In general, each edition is updated to reflect the situation as of 1 December of the previous year." This sentence should reflect the situation of THIS edition. Delete "In general".	Delete "in general" and amend to read "This edition is updated to reflect the situation [...]" whilst specifying any exception (for example, if including an indication of legal changes planned at that date).	The Office disagreed.  The wording is harmonised with the EPC Guidelines and should remain as is.

7	1.1	1 December is a bad choice, as an AC often adopts amendments mid-December, which should be included.	1 January would appear to be a better choice. This also matches the change of the EPC GL in force date to April 1.	The Office disagreed.  This practice is aligned to the other two sets of EPO Guidelines in view of internal work needed prior to the pre-publication of February.
8	1.2.1	What is the point in explaining that "Each part of these Guidelines is divided into sections, which may be further divided into subsections"	Delete "Each part of these Guidelines is divided into sections, which may be further divided into subsections"	The Office disagreed.  The wording is harmonised with the EPC Guidelines and should remain as is. The purpose is to introduce the document's structure.
9	1.3	§5 "Where decisions of the EPO boards of appeal give an interpretation different to what is described in these Guidelines, EPO staff will follow the practice as described in these Guidelines until further notice." This would appear to be in violation of Art 9(1) Reg 1257/2012 that requires tasks "to be carried out in accordance with the internal rules of the EPO".	Are there further internal rules as mentioned in the 9(1) of the regulation.	The Office agreed to the proposal.  The sentence was deleted.
10	1.3		Add before "." In the 3 <sup>rd</sup> line of the 2 <sup>nd</sup> paragraph "or any other interested person (third parties)"  Alternatively simplify!	The Office disagreed.  The wording is harmonised with the EPC Guidelines and should remain as is.  As a side remark: third parties are not the target persons of the Guidelines.
11	1.2.1	What is the point in explaining that "Each part of these Guidelines is divided into sections, which may be further divided into subsections"	Delete "Each part of these Guidelines is divided into sections, which may be further divided into subsections"	The Office disagreed.  See comment 8.

12	1.3.1	<p>The reference to the publication of the Regulations should move to 1.3, which is the first mention of the Regulations. Alternatively, the whole of 1.3.1 should move before 1.3.</p>	Amend as selected.	<p>The Office disagreed.</p> <p>Section 1.3 provides an overview and should thus be kept concise, while the relevant Regulations and Rules are comprehensively introduced in the subsections.</p>
13	1.3.4 2 <sup>nd</sup> para	How does the information to the public guarantee the implementation of Unitary patent protection?	Move “provide information to the public” to the end of the sentence, and delete “to guarantee the implementation of Unitary Patent protection under Rule 3 UPR and Art. 10(2)(a) EPC”	<p>The Office agreed to the proposal.</p> <p>The wording was reviewed and adapted accordingly.</p>
14	1.4	<p>"the UPC as a common court with exclusive competence in infringement and revocation disputes relating to European patents and Unitary Patents"</p> <p>The main issue is that the UP is a European Patent (this term is defined in the UPCA <u>but not in the Guidelines</u> as European patent <u>without</u> unitary effect (Art 2.e). A secondary issue is "exclusive" but it can be argued that the UPCA paves the way to exclusivity ...</p>	<p>Amend to read "... relating to European patents without unitary effect and Unitary Patents".</p> <p>Also, delete the word “exclusive”.</p>	<p>The Office disagreed with the first proposal.</p> <p>The term "Unitary Patent" is defined in section 1.1 as meaning "European patent with unitary effect". A contrario, the term "European Patent" means a European patent without unitary effect.</p> <p>The Office partly agreed to the second proposal.</p> <p>According to Article 32(1) UPCA, the UPC has exclusive competence in infringement and revocation matters. While Article 83 UPCA temporarily limits the UPC's exclusive jurisdiction until 31 May 2030, these limitations are transitional and do not alter the underlying structure of the exclusive</p>

				competence envisaged by the UPCA. The UPC itself uses the term "exclusive" in its documentation, as reflected, for example, in the text of their FAQs. For the sake of clarification, however, rewording this sentence to clarify that there is this exception of the transitional period and add the corresponding reference to Article 83 will be considered.
15	1.5.1	"The territorial scope of a Unitary Patent covers the territories of those EU Member States participating in enhanced cooperation on Unitary Patent protection and in which the UPCA is in force at the time of registration of the unitary effect. A further amendment would appear necessary.	Amend to read: "The territorial scope of a Unitary Patent covers the territories of those EU Member States participating in enhanced cooperation on Unitary Patent protection at the time of requesting the unitary effect and in which the UPCA is in force at the time of registration of the unitary effect."	The Office agreed partly to the proposal.  The territorial scope of a Unitary Patent is determined at the moment of registration of the unitary effect (see section 1.5.2 and Art 18(2) of EU Reg 1257/2012). The wording was adapted accordingly.
Chapter 2				
16	2.2.1	typo in 1 <sup>st</sup> paragraph: non--extendable	non-extendable	The Office agreed to the proposal.
17	2.2.1	§1 Incomplete sentence: "This period is a non-extendable.	Complete sentence: "This period is a non-extendable period."	The Office agreed to the proposal.  The wording was reviewed and adapted accordingly.
18	2.2.1 3 <sup>rd</sup> para	"Unitary effect must be requested by the proprietor of the European patent (Rule 5(1) UPR)". Section 2.2.3 addresses the case when if the proprietors change between filing the request and	Add at the end of the sentence " at the time of filing the request" and a reference to 2.2.3.	The Office agreed partly to the proposal.  The reference to section 2.2.3. can be added. The rest of the suggestion

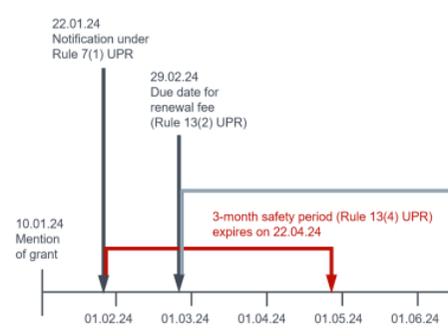
		registrations (transfer, deletion or addition of a proprietor)?		is already in the first sentence of section 2.2.3.
19	2.2.2	"The request must be made by all co-proprietors in respect of the participating Member States to which the unitary effect will extend." Fair enough, but this is not always known (for example: requests filed in the second half of August 2024).	Please insert: "; if one or more of them have not requested it, the UPP Division will request correction (and reject the request for unitary effect unless it is corrected in time)."	The Office disagreed.  The processing of the request for unitary effect is addressed in section 2.4. In particular, this issue is addressed in the last paragraph of section 2.4: the UPP Division will issue a communication inviting the requester to remedy the deficiency if any of the requirements is not met.
20	2.2.3	§3 "The requester(s) must be identical to the proprietor(s) mentioned in the European Patent Register [...]" My understanding is that it is not sufficient that the requester be identical, and that in addition the particulars of the requester must also be identical.	Amend to read "The requester(s) <b>and their particulars</b> must be identical to the proprietor(s) <b>and their particulars</b> mentioned in the European Patent Register [...]"	The Office disagreed.  This comment has already been raised and answered in the last round: the requester means name and address.
21	2.2.4	It should be clarified that "the request" that must be filed in a specific language is in fact only the sentence expressing that unitary effect is requested for the patent. This is because the words "the request" is also used to refer to Form 7000 or equivalent, as for example in the title of sub-section 2.2.5.	Amend the first sentence to read: "The request for unitary effect, i.e. the sentence expressing the wish to obtain unitary effect for the patent, must be filed in the language of the proceedings [...]"	The Office disagreed.  This issue has already been raised and answered in the last round. The sentence in question corresponds to the wording of Rule 6(1) UPR. At the same time, this provision states what the request should contain, thus the term "request" is correctly used in the sub-sections mentioned.
22	2.2.5	EPC articles should not be cited without a reference to UPR.	Introduce a reference to R20 (1) <u>and (3)</u> UPR to justify <i>mutatis mutandis</i> application.	The Office agreed to the proposal.
23	2.2.5	The whole 2.2.5 is unclear. Art 133(3) clearly demands residence or principal place of business in a Contracting State (EPC Contracting State according to R20(3)UPR).	Suggestion: The request for unitary effect may always be signed by - a professional representative (Art. 134(1) EPC), in which case	The Office agreed to the proposal.  The wording was reviewed and adapted accordingly.

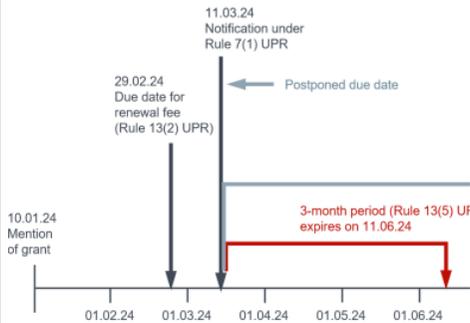
		<p>It would be more clear if the cases of proprietors having their residence or principal place of business in a Contracting State or not were <u>separated</u>.</p> <p>The text §1 leaves the impression that the request may always be signed by an employee, what is only correct if the proprietor has their residence or principal place of business in a Contracting State; it should be spelled out rather than through a reference to the first sentence of Art 133(3) EPC. (a) in §2 says that a person entitled to sign by law is one of those who must sign, but that is contradicted by §1 that mentions "(if their residence or principal place of business is in an EPC contracting state)".</p>	<p>no authorisation needs to be filed, or</p> <ul style="list-style-type: none"> <li>- a legal practitioner (Art. 134(8) EPC), in which case an authorisation must be filed.</li> </ul> <p>When made by natural or legal persons having their residence or principal place of business in a Contracting State, the request for unitary effect may <u>also</u> alternatively be signed</p> <ul style="list-style-type: none"> <li>(a) either, if the proprietor is a natural person, by the proprietor,</li> <li>(b) or, if the proprietor is a legal person, by a person entitled to sign by law, with an indication of that person's position within the legal entity (Art. 133(1) EPC), in which case no authorisation needs to be filed,</li> <li>(c) or by another employee (Art. 133(3), first sentence, EPC; Rule 152(1) to (3) EPC), in which case an authorisation must be filed.</li> </ul>	
24	2.2.6	§3	<p>Insert:</p> <p>"Where the applicant had more than one place of business on the date of filing of the application for the European patent, any one of them can be provided together with the request for unitary effect under Rule 16(1)(w) UPR."</p>	<p>The Office disagreed.</p> <p>Section 2.2.6 already provides that the user may include any of their place of business.</p>
25	2.2.6, page 12	(a) the applicant had their residence or principal place of business on the date of filing of the application for the European patent or	to add "or the international application under the PCT designating or electing the EPO"	The Office disagreed.

				Art. 153(2) EPC already provides that European applications encompass Euro-PCT applications.
26	2.2.6, page 12	(b) where point (a) does not apply, the applicant had a place of business on the date of filing of the application for the European patent.	to add "or the international application under the PCT designating or electing the EPO"	The Office disagreed.  See comment 25.
27	2.2.7	3 <sup>rd</sup> para, last sentence	Delete " <i>For that reason</i> "	The Office agreed to the proposal.  The wording was reviewed and adapted accordingly.
28	2.2.7	§2, third sentence It should be specified that "Fig." should never be translated (by analogy with R49.5(f) PCT)	Insert "(except the word "Fig.")" in the third sentence of §2	The Office disagreed.  This issue has already been raised and answered in the last round. In principle, the EPO does not require the term "Fig." to be translated. Furthermore, there is no UP equivalent to the cited PCT rule, nor a legal basis to apply it by analogy.
29	2.2.7	§4 "registered Unitary Patent" is an unknown concept: what is registered is the unitary effect.	Delete "registered"	The Office agreed to the proposal.
30	2.4	The reference to "the proprietor" in §§2-3-4 should be to "the requester" (see e.g. R7(3) UPR).	Amend to read "the requester"	The Office agreed to the proposal.
31	2.4	§§ 2 and 4: The UPP Division also has to issue an intention to reject the request for unitary effect (Rule 7(2) UPR) and to invite the proprietor to comment at least once in accordance with Art. 113(1) EPC, which applies mutatis mutandis pursuant to Rule 20(1) UPR.	Amend by adding the mentioned text.	The Office agreed to the proposal.  The wording was reviewed and adapted accordingly.
32	2.4	Form 7000 includes entries not mandatory to grant UP (for example date of mention of grant). It appears that if there is an error in these entries, it has no effect.	Please confirm and clarify.	The Office agreed to the proposal.  Optional entries are no requirements under Rule 6 UPR and thus errors therein would not need to be

				corrected for unitary effect to be registered. The wording will be further complemented.
33	2.5	The date of EPO Form 7030, which is now also its date of notification, plays a role for the first renewal fee(s), but it is only visible in the file, whereas the date of registration is entered in the Register. It would be useful to indicate that the unitary effect is registered on the date of EPO Form 7030.	Amend to read for example: "[...] the Unitary Patent Protection Division will register the unitary effect and communicate the date of registration to the requester via EPO Form 7030 <b>bearing the same date</b> [...]"	The Office disagreed.  Dates can differ (for example: returned letters). Also, the date of registration is mentioned on Form 7030.
34	2.6	§1, what if a response has been submitted?	Explain.	The Office agreed to the proposal.  The wording was reviewed in order to clarify that where a response to the intention to reject a request for unitary effect is submitted, this does not alter the rejection.
35	2.6	There does not exist ONE safety net mechanism, each state has its own (or does not have one).	Amend to read "... <b>a</b> safety net mechanism may provide the possibility ..." and also "Information on safety nets can ..."	The Office agreed to the proposal.  The wording was reviewed and adapted accordingly.
36	2.7	Since a request can be withdrawn only as long as the Unitary Patent Protection Division has not taken a decision, this section must be moved <i>before</i> the sections on decisions.	Move as section 2.4 and renumber	The Office agreed to the proposal.
Chapter 3				
37	3.1.3	Last §: "...existing instructions for European patent applications do not..." omits that instructions can be given for patents (refund of appeal fee).	Amend to read "...as existing instructions for European patent applications or patents do not..."	The Office agreed to the proposal.
38	3.1.4		Amend 1st sentence to: "Due dates for the payment of fees related to Unitary Patents follow the same principle as for	Will be checked with LS.

			European patent applications, namely the first day on which the fees may validly be paid, not the last day of a period for such payment, with the exception of renewal fees (see 3.1.7).	
39	3.1.5	The second sentence does not correctly reflect what happens "if the statement is withdrawn". What is meant is apparently that the reduction is applied <u>as long as</u> the statement is registered, why not amend the first sentence. Also, in view of 6.5.2, the second sentence must be amended if retained.	Amend first sentence to read: "A reduction of 15% of the renewal fees is granted as long as a statement by the proprietor offering a licence of right is registered (Art. 3 RFEesUPP; see section 6.5). Amend second sentence to read: "As a result, the reduction is not applied if the withdrawal of the statement has taken effect." (see 6.5.2).	Will be checked with LS.
40	3.1.6	First §: "...existing instructions for European patent applications do not..." omits that instructions can be given for patents (refund of appeal fee).	Amend to read "... existing instructions for European patent applications or patents do not..."	The Office agreed to the proposal.
41	3.1.6	Last §: compensation is not a fee In any case, it is not a compensation <i>request</i> that is to be credited (but a compensation <i>amount</i> ).	Delete "or, where applicable, a compensation request is to be credited to a bank account".	The Office agreed to the proposal. The wording was reviewed and adapted accordingly.
42	3.1.7	It would be user-friendly to add that each patent year ends on the anniversary of the date of filing.	Insert: "Each patent year ends on the anniversary of the date of filing of the European patent application which led to the Unitary Patent."	The Office agreed to the proposal. The wording was reviewed and adapted accordingly.
43	3.1.7.1	If renewal fees cannot be validly paid more than three months before they fall due, they can also not be validly paid before the unitary effect has been registered (because the UP does not yet exist).	What will happen if the renewal fee is paid before the registration. For example on the date of publication of the EP patent.	The Office disagreed. This is already addressed in section 3.1.7.5.2.

			Include 1.1.5 of the Unitary Patent Guide.	
44	3.1.7.2	§2 Rules 14(1)(b) and 14(2) UPR do not appear to relate to the manner of computing the grace period.	Delete "Rules 14(1)(b) and 14(2) UPR"	The Office agreed with the proposal.  The wording was reviewed and adapted accordingly.
45	3.1.7.4	It would be user-friendly to mention that this is different than for European patent applications	Add: This is different than for European patent applications, for which the legal consequence ensues upon expiry of the six-month period (Rule 51(3) EPC, last sentence)	The Office disagreed.  As mentioned at the last round of comments in relation to proposals to compare with EPC practice, the UP Guidelines do not aim at comparing with EPC practice. Rather, they provide instructions to UPD staff in UP proceedings.
46	3.1.7.5.1	The very clear figure of Unitary Patent Guide (2024), paragraphs 111-112, w.r.t. the time limits/three-month safety period under Rule 13(4) has not included, despite request thereto. (Note that the EPO Guidelines also contain figures, e.g., in A-IV, 1.4.1.1, so that including these figures is not against current drafting practice)	Please include the Figure that is/was shown in Unitary Patent Guide (2024), paragraphs 111-112:  	The Office agreed to the proposal.
47	3.1.7.5.1	Last sentence: "With respect to the date of notification of a communication, the established practice of the EPO applies (see EPC Guidelines, E-II, 2)."	Amend to read ""With respect to the date of notification of a communication, R. 125-130 apply in view of R. 20(2) UPR (see EPC Guidelines, E-II, 2)."	The Office disagreed.  It is established practice if it is in the EPC Guidelines. The cross reference suffices.

		It is incorrect to speak about established practice when it change two years ago. There should be a reference to R125 to 130 EPC, applicable mutatis mutandis in view of R20(2)UPR.		
48	3.1.7.5.2	The very clear figure of Unitary Patent Guide (2024), paragraphs 113-116, w.r.t. renewal fee falling due between the grant of the European patent and the notification of the registration of unitary effect under Rule 13(5) UPR has not included, despite request thereto.	Please include the Figure that is/was shown in Unitary Patent Guide (2024), paragraphs 113-116: 	The Office agreed to the proposal.
49	3.1.7.5.2	First sentence: "Once the EPO has notified the patent proprietor of the decision to register unitary effect, ..." appears incorrect in view of R7(1) UPR.	Amend to read: "Once the EPO has notified the patent proprietor of the registration of the unitary effect,..."	Will be checked with LS.
50	3.1.7.5.2	§2: the same date is described 3x differently. Harmonise, for example using the language of R7(1) UPR with a reference to that rule.	Amend to read: "... the date of the registration of the unitary effect (R.7(1)UPR)..."	The Office agreed to the proposal. The wording was reviewed and adapted accordingly.
51	3.1.7.5.3	1. Rule 13(6) UPR makes also reference to Rule 51(5) EPC. 2. The section anticipates that the <b>only</b> possible application of Rule 13(6) UPR in combination with Rule 51(4) EPC is in case the lapse is "due to non-payment of renewal fee". Please confirm.		The Office disagreed. If the UP lapses due to non-payment then Rule 51(4) EPC applies mutatis mutandis. This section only informs

				about the lapse, not about Rule 13(6) UPR or Rule 51(5) EPC.
52	3.2.1.3	The 1 <sup>st</sup> paragraph would appear to flatly contradict Rule 8(2) UPR, which should not be by-passed by a reference to Art 5 Reg 1260/2012 (or, worse, a recital). It is actually contradicted by 3.2.2.1, §2, second sentence (also by 3.2.3.3 and 3.2.3.4).	Amend to read: "If the request for compensation is submitted by the same entity as the one that filed the European patent application, the eligibility criteria must be fulfilled at the time of requesting the compensation (R. 8(2) UPR)."	The Office disagreed.  The first paragraph is valid: the legal references explain its basis. See explanatory remark 7 to Rule 8 UPR (SC/D 1/15).
53	3.2.1.4	It might be user-friendly to either specify which are the official languages of the EU (Luxembourgish is an official language of LU but not of EU) or provide a reference.	Insert.	The Office agreed to the proposal.
54	3.2.2.1	§3 "All the options for filing the request for unitary effect include a checkbox ..." does not appear to be correct, because the option of filing on paper, not using Form 7000, is such an option.	Amend.	The Office agreed to the proposal.  The wording was reviewed and adapted accordingly.
55	3.2.2.1	§3, second sentence: "If the request is not filed electronically or using the checkbox, it must..." is unclear: which request, what is "it"?	Amend to read: "If the request for compensation is not filed electronically or using the checkbox in Form 7000, a request for compensation and the required declaration of eligible status must ..."	The Office agreed to the proposal.
56	3.2.3.2	A compensation amount is in practice handled as a refund. Why not say it, and refer to 3.1.6?	Insert: "A compensation amount is in practice handled as a refund (see 3.1.6)."	The Office agreed partly to the proposal.  The compensation is a pay-out, not a refund. However, the actual process via CFP requires choosing "Claim a refund". The wording was adapted accordingly.
57	3.2.3.3	Rejection of the request for compensation Is there any relevant decision of UPC?		For information: no, there is no such decision yet.
58	3.2.3.3	The reference to 2.6 at the end appears incorrect.	Delete "see 2.6"	The Office agreed to the proposal.

<b>59</b>	3.2.3.3	Second bullet point (compare with third one)	Insert "state"	The Office agreed to the proposal.
	Chapter 4			
<b>60</b>	4.1	Language issue	Replace "the main circumstances" with "The most frequent cases"	The Office agreed to the proposal. The wording was reviewed and adapted accordingly.
<b>61</b>	4.1	Last § contains two different topics.	Divide.	The Office agreed to the proposal.
<b>62</b>	4.1	Last §, 2 <sup>nd</sup> sentence: R13(2) does not set a time limit, therefore this explanation appears incorrect.	Amend 2 <sup>nd</sup> and 3 <sup>rd</sup> sentences to read: "Rule 13(2) UPR does not set a time limit for paying renewal fees. Therefore, re-establishment of rights is not applicable, but the renewal fee can still be paid with the additional fee under Rule 13(3) UPR."	The Office disagreed. Rule 13(2) UPR does set a time limit, namely "the last day of the month containing the anniversary of the date of filing of the European patent application which led to the European patent with unitary effect. However, section 4.1. has been revised to clarify this point.
<b>63</b>	4.2.4	When and under which circumstances the cause occurred and was removed is not to be provided when the one-year period for requesting re-establishment of rights that starts upon expiry of the unobserved time limit does not apply .	Clarify.	The Office disagreed. This wording is in line with the EPC Guidelines 2025, see E-VIII, 3.1.4. When and under which circumstances the cause of non-compliance occurred / was removed is relevant in all possible scenarios for re-establishment of rights, even in cases where the one-year limitation does not apply (i.e. for the re-establishment into the time limit of Rule 6(1) UPR).
<b>64</b>	4.4	§2 and §4 "within a non-extendable time limit of one month".	Amend to read "within a period to be specified".	The Office partially agreed with the proposal.

		<p>This does not appear to have a legal basis, thus should be amended (if there is one, then it should be indicated).</p>	<p>If desired, there can be added an indication of how the discretion of the UPP Division should be exercised (suggestion: one month in connection with requests for unitary effect, else two months).</p>	<p>This time limit is not expressly foreseen in the UPR (contrary for instance to the one-month time limit prescribed in Rule 7(3) UPR to correct deficiencies in the UP request). Rule 20(4) UPR provides for a general legal basis to set a non-extendable time limit of one month. For the request for unity effect the established practice of one month is necessary in order to ensure a swift resolution of the registration status. This is less the case of request for re-establishment in the context of missed time limits for the payment of renewal fees, where a period of two months could be considered. The Office will further reflect on this matter.</p>
65	4.4	<p>§4 does not appear to provide any further information than §2.</p>		<p>The Office partially agreed with the proposal.</p> <p>Para. 2 relates to the request for re-establishment of rights while para. 4 concerns the request for unitary effect. These requests are distinct and are handled independently. Thus, in each case, the proprietor has the possibility to make use of their right to be heard and in both instances a final decision will be issued by the UPPD. That said, para. 4 could be further clarified.</p>

<b>66</b>	4.4		Add at the end "Actions against the decision are lodged to the UPC."	The Office agreed to the proposal.  The wording was reviewed and adapted accordingly.
<b>66 a</b>	4.4	The proprietor will have the opportunity to file comments within a non-extendable time limit of one month.	Oral proceedings may be requested? Rule 21(1) UPR	The Office agreed to the proposal.  See comment 80 below.
	Chapter 5			
<b>67</b>	5.3 last para	Is the president authorized to decide on the resumption of the proceedings?	If there is any legal basis, then add this.	The Office disagreed.  The OJ Notices are the legal basis, and they are referenced.
<b>68</b>	5.3	The introduction of stay of proceedings in the same section as Art 142 interruption, and in particular the presence of 5.1 "General" gives a clear (but wrong) impression that the consequences of a stay and an interruption are the same. Please clarify.	Renumber 5.1 and 5.2 as 5.1.1 and 5.1.2, with 5.1 entitled Interruption of proceedings. Renumber 5.3 as 5.2, and insert the consequences, including an explanation of what happens on resumption.	The Office agreed to the proposal.
	Chapter 6			
<b>69</b>	6.4.1, 4 <sup>th</sup> paragraph	As to the standard of proof applying to the registration of licences and other rights, any legal means of execution and any administrative fees due, see EPC Guidelines, E-XIV, 3 and 6.	to add a sentence: No administrative fee is due where a request is filed via MyEPO Portfolio (OJ EPO A22). Where the request is filed via other means, the administrative fee remains due.	The Office agreed to the proposal.  The wording was reviewed and adapted accordingly.
<b>70</b>	6.6	"free –text"	"free-text"	The Office agreed to the proposal.
	Chapter 7			
<b>71</b>	7.1.2	"Unitary Patents already registered" is a tautology.	Delete "already registered" or amend to read "Unitary Patents after registration"	The Office agreed to the proposal.

72	7.2.5	§4 What does "In that case" refer to? The case where one of the proprietors is obliged to appoint a professional representative, or the case where the proprietor first named in the request has already appointed a professional representative?	Clarify	The Office agreed to the proposal.  Updated with "in either case".
72 a	7.2.6	Where the proprietor does not have their residence or principal place of business in an EPC contracting state and no (new) professional representative is appointed, the EPO will confirm this to the proprietor and, if applicable, invite them to appoint a professional representative.	Not sure when this is not applicable.	The Office agreed to the proposal.  The words "if applicable" were removed.
72 b		Where there are multiple proprietors, the invitation is sent to all of them. If the proprietors do not comply with that invitation, they cannot take any procedural steps until the deficiency is remedied.	As a question: can all proprietors reply and appoint a professional representative? Or only the first-named proprietor?	For information: any of the proprietors can file the appointment / authorisation, but it should be signed by all proprietors.
73	7.4	§1 "parties may use any of the EPO's official languages in written proceedings before the EPO" should be supported by a legal basis	Insert legal basis (Rule 20(2)(a) UPR in combination with Rule 3 EPC, § 1, 1 <sup>st</sup> sentence).	The Office agreed to the proposal.
74	7.5.1		Consider specifying the time limits of Rule 20(4) UPR and Rule 132(2) EPC.	The Office does not agree to the proposal.  See comment 76.
75	7.5.1	Last year, it had been suggested to provide an indication of how the discretion of the UPP Division is (or should be) exercised when specifying a period.	Suitable language can be adapted from the EPC Guidelines D-X, 4.4: <i>The normal period is two months (Rule 132(2)).</i> For example: <i>The normal period is one month when related to the request for unitary effect, two months in other cases (Rule 132(2)).</i>	The Office does not agree to the proposal.  See comment 76.
76	7.5.1	Last year, it had been suggested that Rule 20(4) UPR does <u>not</u> say that such periods cannot be extended within the 1-4 month range. This is	Suitable language can be adapted from the EPC Guidelines D-X, 4.4: <i>The normal period [...]. It is, in</i>	The Office does not agree to the proposal.

		confirmed by explanatory note 15 on page 75 of document SC/D 1/15: "For the purpose of legal certainty, and in order to keep the overall duration of the procedure for requesting unitary effect reasonably short, in line with Regulation (EU) No 1257/2012, some modifications to the periods of the EPC are proposed: <b>Rule 20(4) takes over the substance of Rule 132 EPC</b> but shortens the minimum period to one month instead of two."	<i>principle, extendable, but only under exceptional circumstances. For example: The normal period is [...]. It is, in principle, extendable, but only under exceptional circumstances.</i>	This question was already addressed in the last session. The periods cannot be extended because the UPR do not contain a provision equivalent to Rule 132(2), last sentence, EPC, that is the one-month period may not be extended upon request in special cases. That said, the wording will be further clarified.
77	7.6.3	The first sentence would appear incorrect when stating that changes to proprietor or representative entries are recorded in the Register for unitary patent protection by the UPP Division only <u>if unitary effect has been registered</u> . Surely, for example, a change in representation during the processing of the request for unitary effect would be recorded.	Clarify.	The Office agreed partly to the proposal.  The first sentence is correct, changes are only recorded by the UPP Division if the unitary effect has been registered. Adding section 7.2.6 as a cross-reference to further clarify will be considered.
78	7.7.1	It is absolutely essential to explicitly mention the short period for filing an action at the UPC, the need to use the language in which the patent was granted, and the need to pay a fee;	Amend the first sentence of §2 to read: " If the Unitary Patent Protection Division rejects a request for unitary effect, any application to reverse its decision must be lodged at the Registry of the UPC, in the language in which the patent was granted, <u>within three weeks</u> of service of the decision of the European Patent Office, together with the fee (Rule 97(1) RoP UPC).	The Office agreed to the proposal.
79	General comment	Methods of notification are not covered.	Add a section on notification via post and MyEPO.	The Office agreed to the proposal.

80	General comment	There is no information on Oral proceedings before the Unitary Patent Protection Division.	Add a section on oral proceedings before the Unitary Patent Protection Division.	The Office agreed to the proposal.
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