Europäisches Patentamt
European Patent Office
Office européen des brevets

MyEPO services

Feature guide: replying to communications with deadlines

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1. Introduction

As you work with the EPO on your patent applications, you will receive procedural communications from the EPO in your Mailbox, and some of these have a deadline by which you need to reply.

The **Actions** area of MyEPO Portfolio makes this easy by showing you a list of replies with deadlines that are pending, and helping you reply.

You can reply to the following types of communication in the Actions area:

- **Invitations about subject-matter for search (Rules 62a and 63 EPC)**
- **Extended European search reports (Rule 70a EPC)**
- **Communications in examination under Article 94(3) EPC**
- **Communications about the intention to grant the European patent (Rule 71(3) EPC)**

When you use MyEPO Portfolio to reply, you are guided through each step, with easy access to procedural support information, checks that what you are filing makes sense, and reminders to pay fees if relevant.

You can also set up email alerts to inform you of new pending actions or approaching deadlines.

MyEPO Portfolio therefore gives you a more user-friendly alternative to filing a 1038 form in Online Filing 2.0. that reduces the risk of errors when filing a reply.

In this feature guide, we explain how using MyEPO Portfolio for filing replies works in general, and provide more information about the specific replies you can perform today.

To guide you further, we have also published some Frequently Asked Questions (FAQs), and you can always get in touch with support@epo.org or your key account manager if you still aren't sure about something.

2. How replying to communications works in MyEPO Portfolio

Who can submit replies in MyEPO Portfolio?

Procedural replies to a communication must be signed by the representative assigned to the application or opposition case, or by the applicant or opponent themself if they are self-representing and not making use of a professional representative.

In practice, many firms work with teams of paralegal or IP support staff who draft and submit requests, duly signed by the representative.

As a rule, in MyEPO Portfolio any user who has been granted access by their company administrator to work on a given portfolio of applications, will have access to the “Applications and patents” and “Actions” area, where they can draft, review, and submit replies.

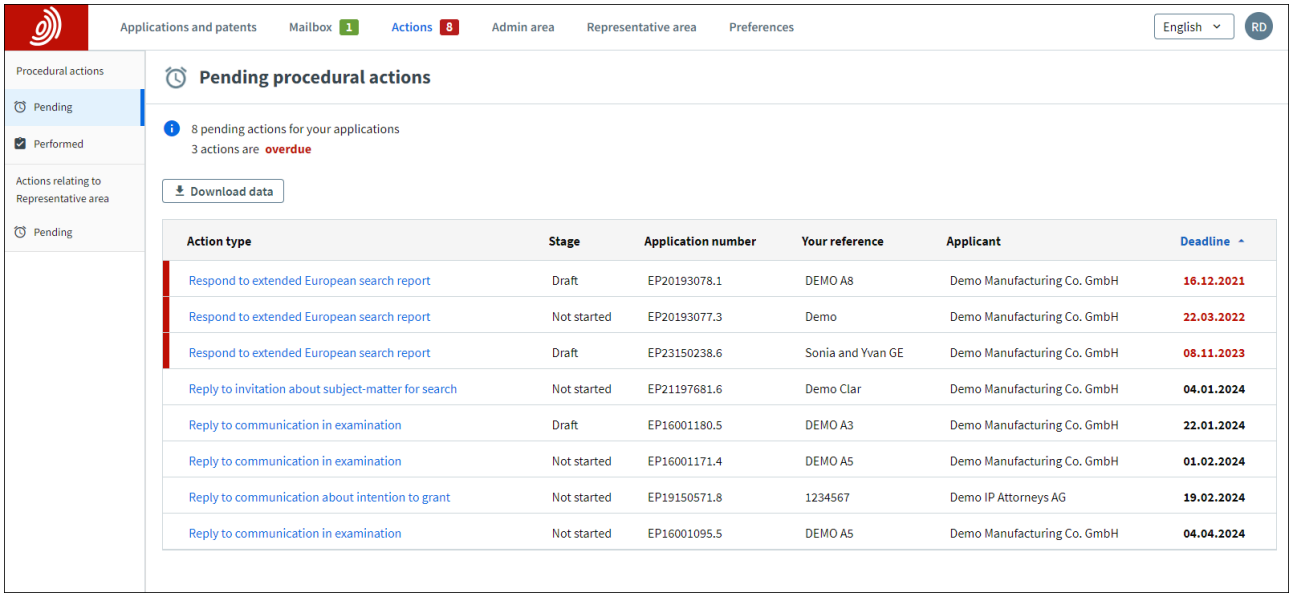
For more information about how to manage access in MyEPO Portfolio, please see the feature guide for managing user access.

For more information about how to become a user with access to our online MyEPO services, please see the “Get access” page on the EPO website.

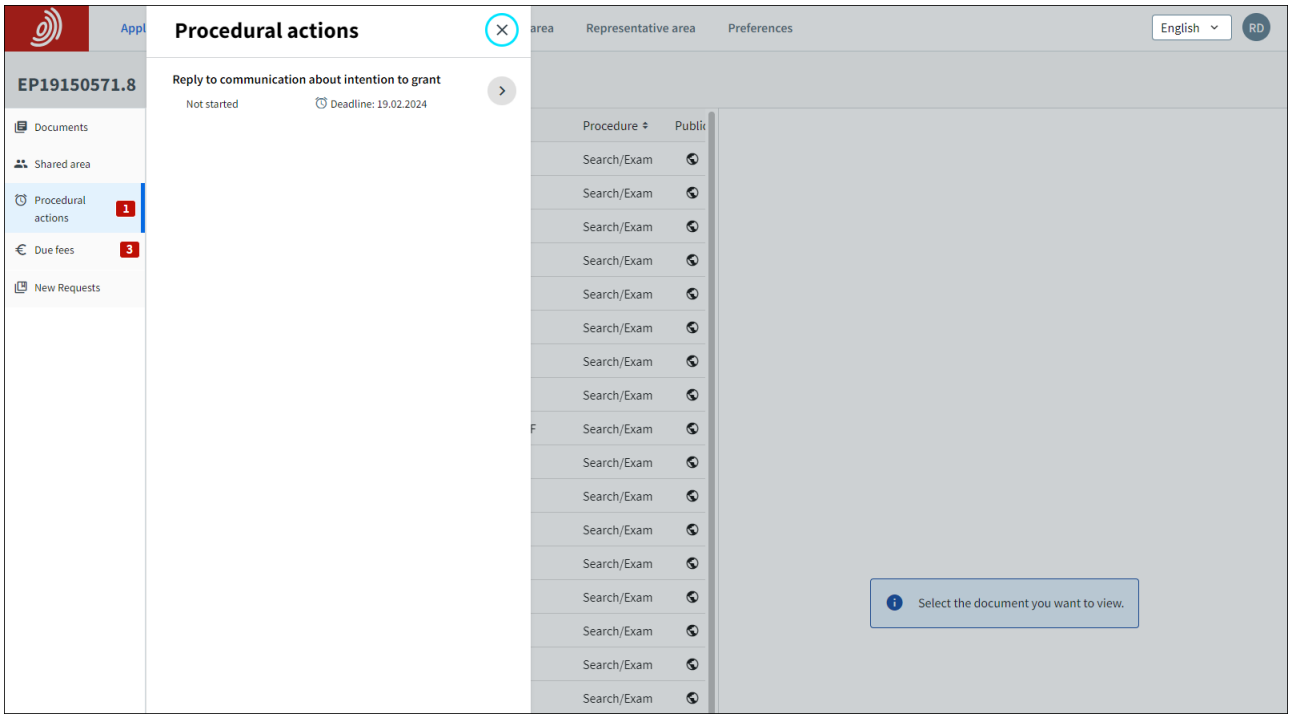
Where do I go in MyEPO Portfolio to reply to a communication?

After logging into MyEPO Portfolio with your EPO account or smart card, navigate to the **Actions** area.

You will see a list of pending procedural reply actions with deadlines.

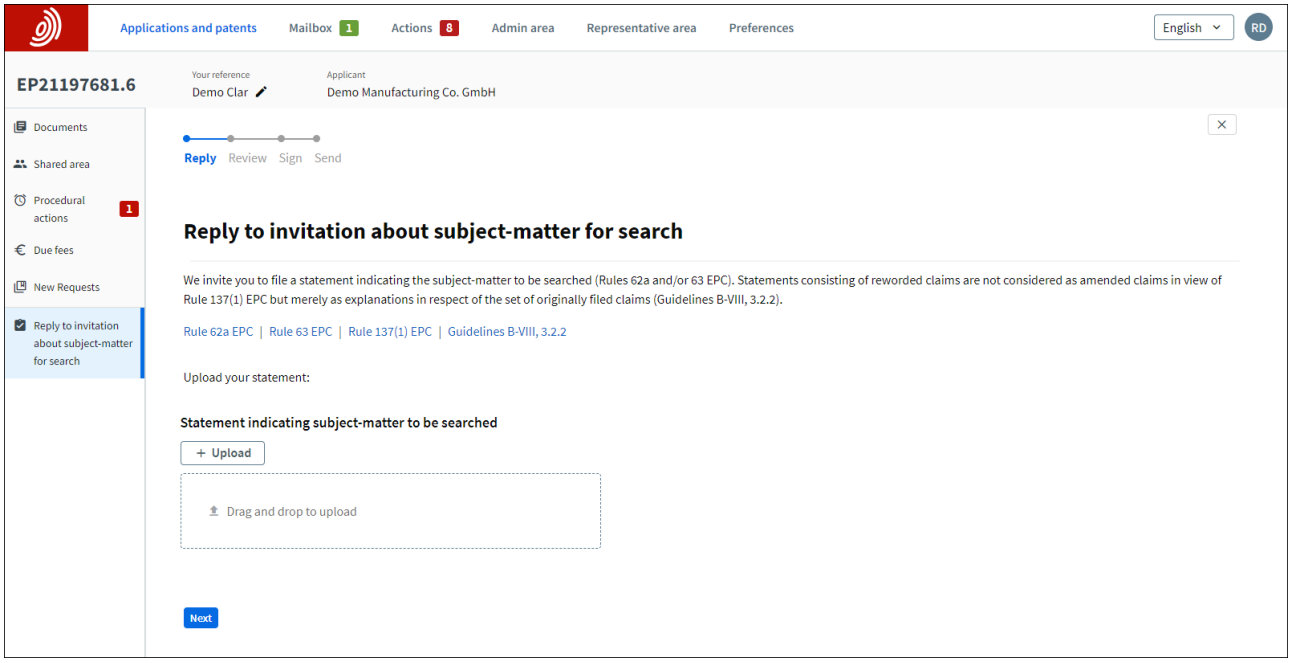


You can also see pending procedural actions for a specific application when you open the application from the **Applications and patents** area.



To perform a reply, you simply click on the action link. You will then be guided step-by-step to provide the information we require for your reply.

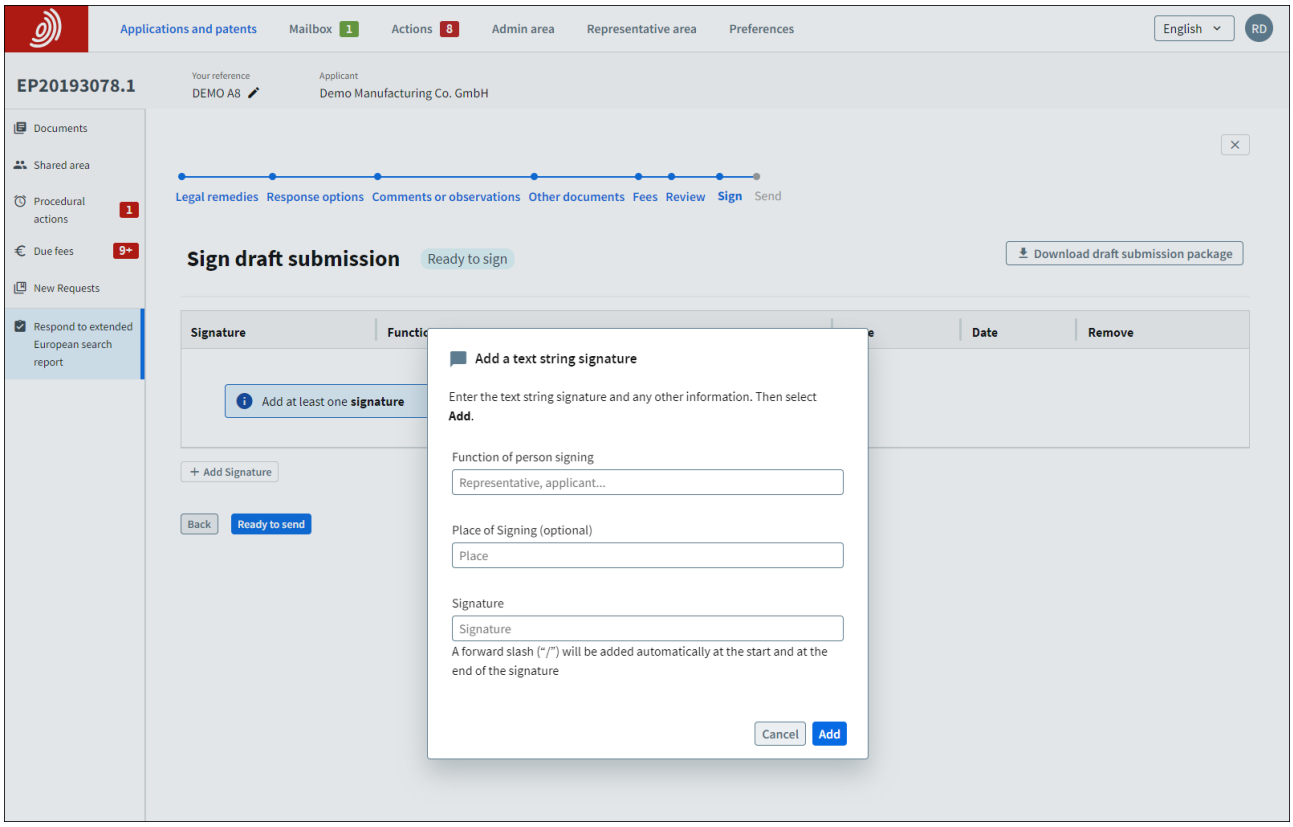
This may include asking you to upload documents, depending on the nature of the reply.



We will indicate if any fees are payable, and you will have the option to pay them first.

When everything is ready you will be asked to review the draft submission and, if you wish, can download the submission package for review by your colleagues or the representative.

Finally, you will be prompted to add a signature to the submission.



Fill in the function of the person whose signature should appear on the submission. For example, they could be a representative, an applicant, or an opponent. Then add the place of signing (optional) and type the name of the person in the signature box.

When you have added the signature, indicate that you are ready to send, and in the next screen you can send the submission when you are ready.

After a reply has been sent, it will be added to the digital file for the application, and you will be able to see the reply in the application documents in the “Applications and patents” area.

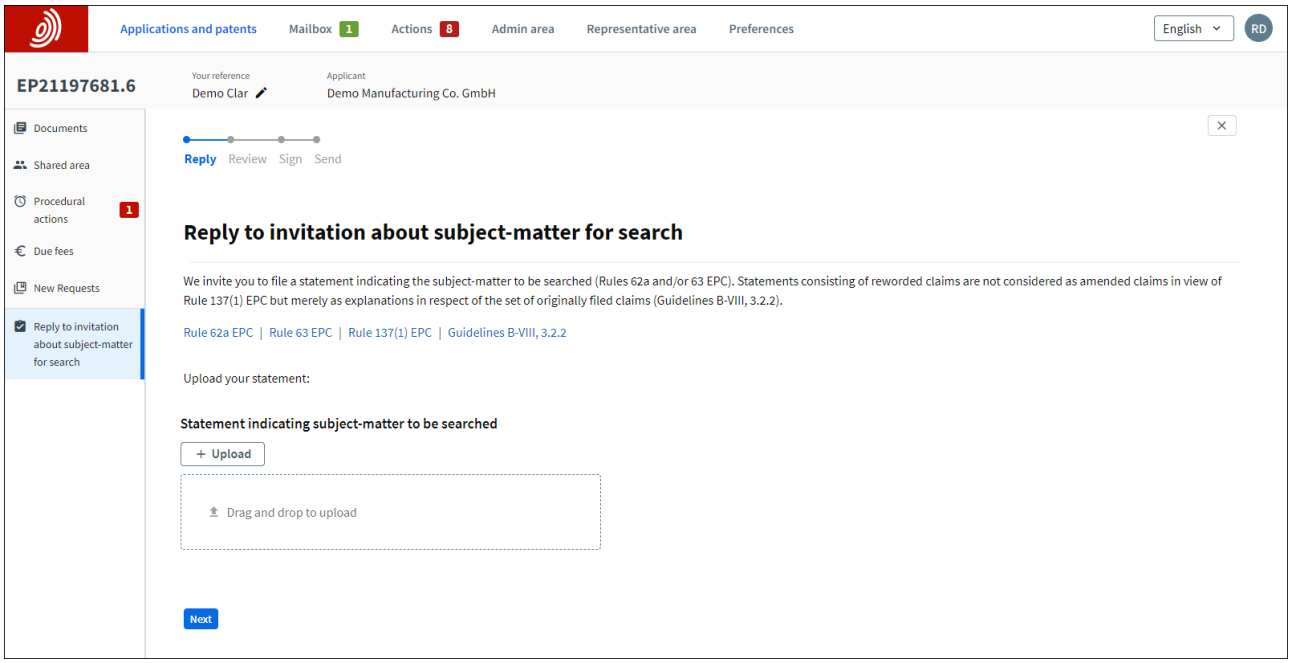
In chapter 3, we provide additional specific instructions for different types of reply.

3. Further information about the different types of reply

3.1 Reply to an invitation about subject-matter for search (Rules 62a and 63 EPC)

You may receive this communication if your application contains several independent claims in the same category (Rule 62a EPC). You can then use MyEPO Portfolio to clarify which subject-matter to search (Rule 62a(1) EPC).

You may also receive this communication if the EPO considers a meaningful search not possible on the basis of the subject-matter claimed. In that case you can use MyEPO Portfolio to file a statement indicating the subject-matter to be searched (Rule 63(1) EPC).

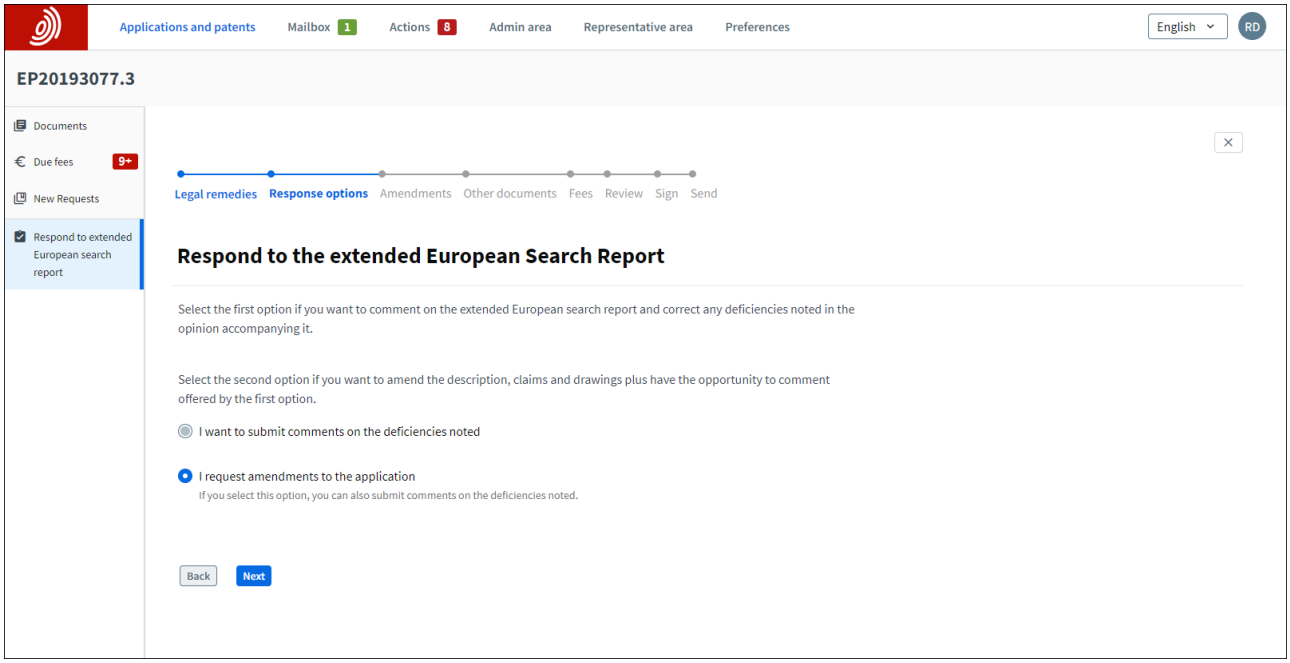


3.2 Respond to an extended European search report (Rule 70a EPC)

You will receive this communication if the opinion accompanying the search report is negative.

You may then use MyEPO Portfolio to:

- comment on the deficiencies noted
- request amendments to the description, claims and drawings



3.3 Reply to a communication under rules 161(1) and 162 EPC - PILOT FEATURE

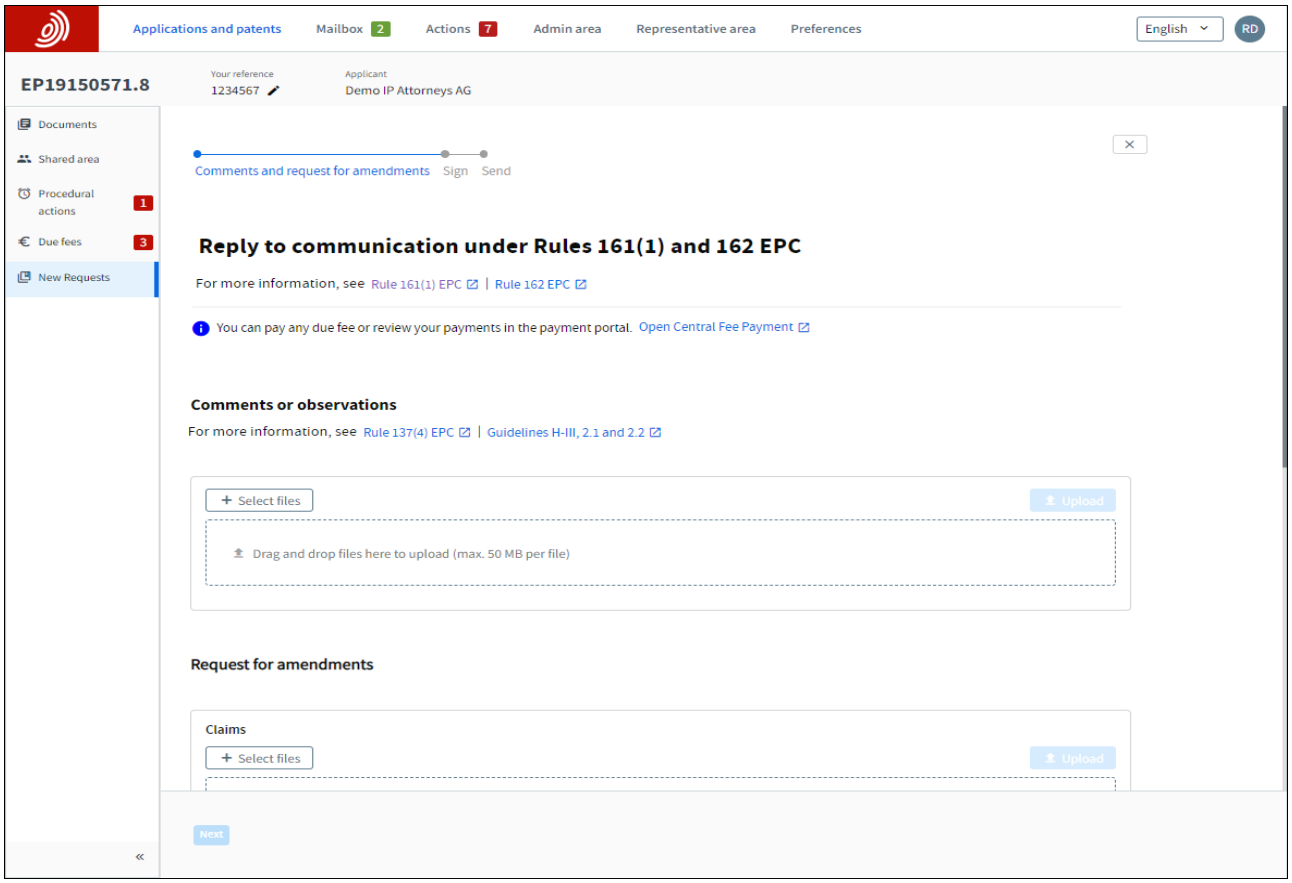
PLEASE NOTE: This feature is currently only available to users from pilot companies. Once pilot phase 4 successfully completes in 2024, it will be made available to all users.

You will receive this communication after your international PCT application has validly entered the European phase unless you have waived the communication. The communication will invite you to file amendments and pay fees where relevant.

You may use MyEPO Portfolio to file amendments in reply according to one of the following scenarios:

- Your reply is mandatory if the EPO was the ISA/SISA and the International search opinion was negative, and no amendments or comments were filed during the international phase or upon entry into the European phase.
- Your reply is voluntary if the EPO was the ISA/SISA and either the international search opinion was positive, or the international search opinion was negative, but amendments or comments were filed during the international phase or upon entry into the European phase.
- Your reply is voluntary if the EPO was not the ISA or SISA.

Please note: to reply to this communication you should go to the **New Requests** tab on the application record. It isn't available under the **Actions** area or the **Procedural actions** tab for the application. Any claims fees due should be paid separately using Central Fee Payment or by other means of payment.



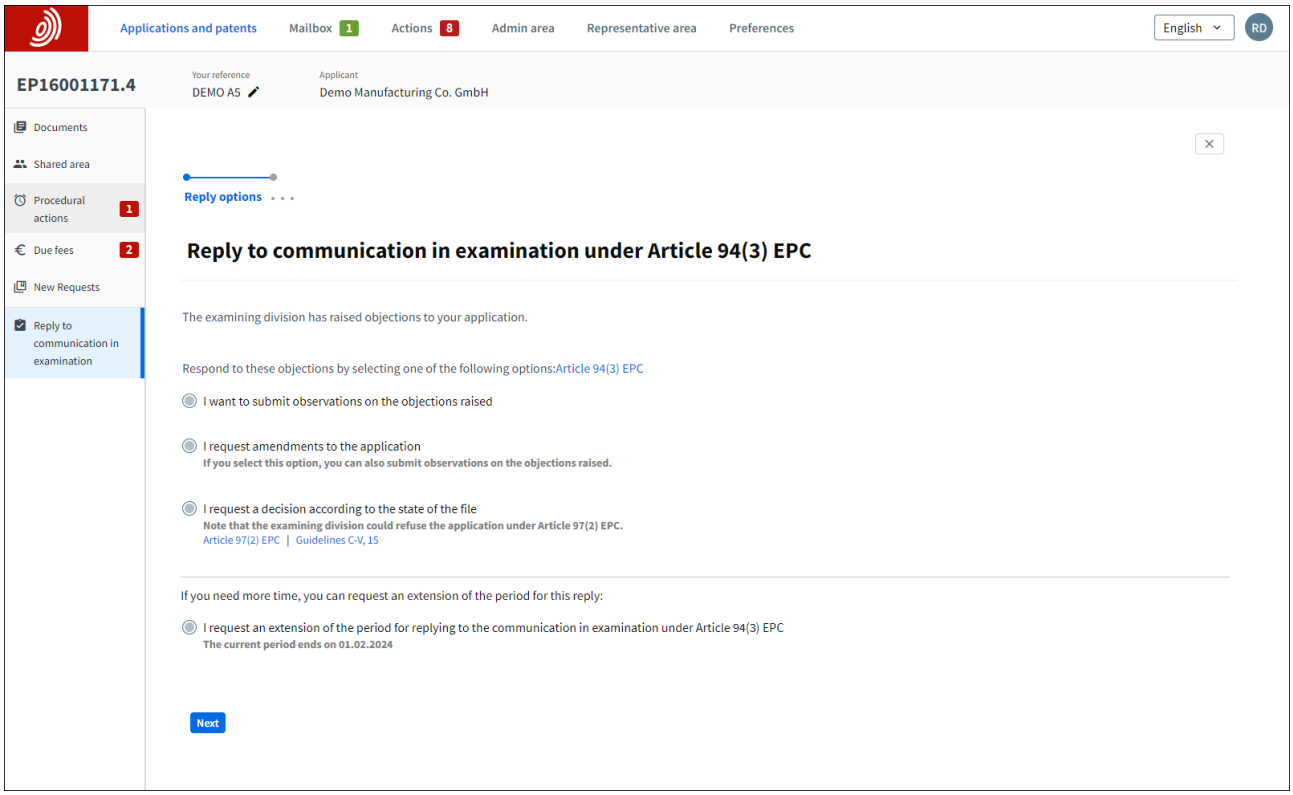
3.4 Reply to a communication in examination under Article 94(3) EPC

You will receive this communication if the examining division finds deficiencies in your application.

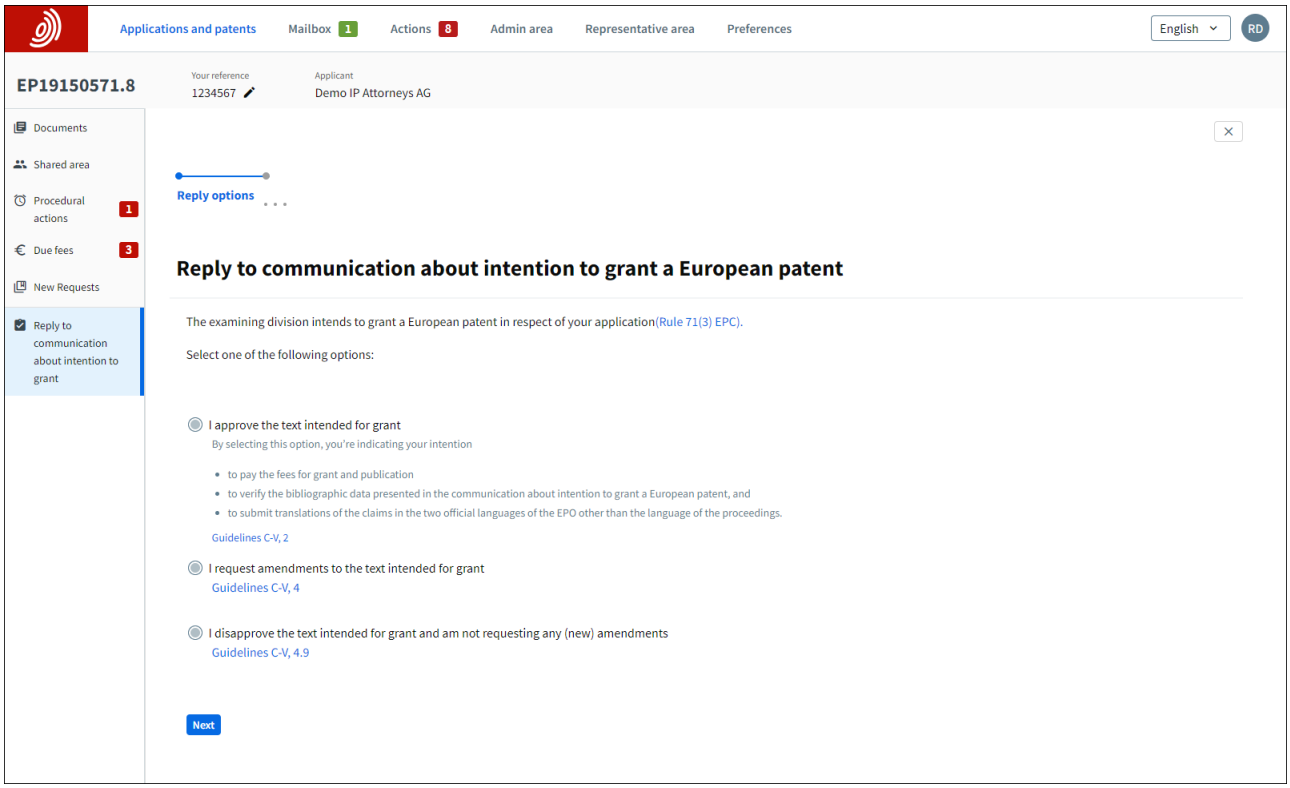
You may then use MyEPO Portfolio to:

- Submit observations on the objections raised
- Request amendments to the application
- Request a decision according to the state of the file

If you need more time, you may also request a time limit extension.



3.5 Reply to a communication about the intention to grant (Rule 71(3) EPC)

This communication informs you that the examining division intends to grant a European patent and gives you the following options:

- To approve the proposed text of the patent
- To request amendments to the text
- To disapprove the text without requesting amendments