



43. Pravilnik o ratifikaciji Pravilnika o izvajanju Konvencije o podeljevanju evropskih patentov

Na podlagi petega odstavka 75. člena Zakona o zunanjih zadevah (Uradni list Republike Slovenije, št. 45/01) izdaja Vlada republike Slovenije

UREDBO

O RATIFIKACIJI PRAVILNIKA O IZVAJANJU KONVENCIJE O PODELJEVANJU EVROPSKIH PATENTOV

1. člen

Ratificira se Pravilnik o izvajanju Konvencije o podeljevanju evropskih patentov z dne 5. oktobra 1973, kot je bil zadnjič spremenjen z odločitvijo upravnega sveta Evropske patentne organizacije z dne 13. decembra 2001.

2. člen

Besedilo pravilnika iz 1. člena se v izvorniku v angleškem jeziku in v prevodu v slovenskem jeziku glasi:

IMPLEMENTING REGULATIONS TO THE CONVENTION ON THE GRANT OF EUROPEAN PATENTS of 5 October 1973

as last amended by Decision of the Administrative
Council of the European Patent Organisation of
13 December 2001

PART I IMPLEMENTING REGULATIONS TO PART I OF THE CONVENTION

Chapter I Languages of the European Patent Office

Rule 1

Derogations from the provisions concerning the language of the proceedings in written proceedings

(1) In written proceedings before the European Patent Office any party may use any official language of the European Patent Office. The translation referred to in Article 14, paragraph 4, may be filed in any official language of the European Patent Office.

(2) Amendments to a European patent application or European patent must be filed in the language of the proceedings.

(3) Documents to be used for purposes of evidence before the European Patent Office, and particularly publications, may be filed in any language. The European Patent Office may, however, require that a translation be filed, within a given time limit of not less than one month, in one of its official languages.

PRAVILNIK O IZVAJANJU KONVENCIJE O PODELJEVANJU EVROPSKIH PATENTOV z dne 5. oktobra 1973,

zadnjič spremenjen z odločitvijo upravnega sveta
Evropske patentne organizacije z dne
13. decembra 2001

I. DEL PREDPISI O IZVAJANJU I. DELA KONVENCIJE

I. poglavje Jeziki Evropskega patentnega urada

1. pravilo

Izjeme glede določb o jeziku postopka v pisnem postopku

(1) V pisnem postopku pri Evropskem patentnem uradu lahko vsaka stranka uporablja kateri koli uradni jezik Evropskega patentnega urada. Prevod iz četrtega odstavka 14. člena se lahko vložijo v katerem koli uradnem jeziku Evropskega patentnega urada.

(2) Spremembe evropske patentne prijave ali evropskega patenta morajo biti vložene v jeziku postopka.

(3) Dokumenti, ki se uporabljajo kot dokazno sredstvo pri Evropskem patentnem uradu, zlasti objave, so lahko vloženi v katerem koli jeziku. Vendar lahko Evropski patentni urad zahteva, da se v določenem roku, ki ni krajši od enega meseca, vložijo prevod v enem od njegovih uradnih jezikov.

Rule 2**Derogations from the provisions concerning the language of the proceedings in oral proceedings**

(1) Any party to oral proceedings before the European Patent Office may, in lieu of the language of the proceedings, use one of the other official languages of the European Patent Office, on condition either that such party gives notice to the European Patent Office at least one month before the date laid down for such oral proceedings or makes provision for interpreting into the language of the proceedings. Any party may likewise use one of the official languages of the Contracting States, on condition that he makes provision for interpretation into the language of the proceedings. The European Patent Office may permit derogations from the provisions of this paragraph.

(2) In the course of oral proceedings, the employees of the European Patent Office may, in lieu of the language of the proceedings, use one of the other official languages of the European Patent Office.

(3) In the case of taking of evidence, any party to be heard, witness or expert who is unable to express himself adequately in one of the official languages of the European Patent Office or the Contracting States may use another language. Should the taking of evidence be decided upon following a request by a party to the proceedings, parties to be heard, witnesses or experts who express themselves in languages other than the official languages of the European Patent Office may be heard only if the party who made the request makes provision for interpretation into the language of the proceedings; the European Patent Office may, however, authorise interpretation into one of its other official languages.

(4) If the parties and the European Patent Office agree, any language may be used in oral proceedings.

(5) The European Patent Office shall, if necessary, make provision at its own expense for interpretation into the language of the proceedings, or, where appropriate, into its other official languages, unless this interpretation is the responsibility of one of the parties to the proceedings.

(6) Statements by employees of the European Patent Office, by parties to the proceedings and by witnesses and experts, made in one of the official languages of the European Patent Office during oral proceedings shall be entered in the minutes in the language employed. Statements made in any other language shall be entered in the official language into which they are translated. Amendments to the text of the description or claims of a European patent application or European patent shall be entered in the minutes in the language of the proceedings.

**Rule 3
(deleted)****Rule 4****Language of a European divisional application**

European divisional applications or, in the case referred to in Article 14, paragraph 2, the translations thereof, must be filed in the language of the proceedings for the earlier European patent application

**Rule 5
Certification of translations**

When a translation of any document must be filed, the European Patent Office may require the filing of a certificate that the translation corresponds to the original text within a

2. pravilo**Izjeme glede določb o jeziku postopka v ustnem postopku**

(1) Vsaka stranka v ustnem postopku pri Evropskem patentnem uradu lahko namesto jezika postopka uporablja drug uradni jezik Evropskega patentnega urada, če vsaj en mesec pred datumom, določenim za ustni postopek, o tem obvesti Evropski patentni urad ali če zagotovi prevajanje v jezik postopka. Vsaka stranka lahko uporablja tudi enega od uradnih jezikov držav pogodbenic, če zagotovi prevajanje v jezik postopka. Evropski patentni urad lahko dovoli izjeme glede določb tega odstavka.

(2) Med ustnim postopkom lahko uslužbenci Evropskega patentnega urada namesto jezika postopka uporabljajo drug uradni jezik Evropskega patentnega urada.

(3) Pri izvajanju dokazov lahko vsaka stranka, ki jo je treba zaslišati, pričā ali izvedenec, ki se ne more ustrezno izražati v enem od uradnih jezikov Evropskega patentnega urada ali držav pogodbenic, uporablja drug jezik. Če je izvajanje dokazov določeno na podlagi zahteve ene od strank v postopku, se lahko stranke, ki jih je treba zaslišati, pričā ali izvedenci, ki se izražajo v jezikih, ki niso uradni jeziki Evropskega patentnega urada, zaslišijo le, če stranka, ki je vložila zahtevo, zagotovi prevajanje v jezik postopka; Evropski patentni urad lahko odobri tudi prevajanje v katerega od njegovih drugih uradnih jezikov.

(4) Ob soglasju strank in Evropskega patentnega urada se lahko v ustnem postopku uporablja kateri koli jezik.

(5) Če je treba, Evropski patentni urad na svoje stroške zagotovi prevajanje v jezik postopka ali, kjer je primerno, v svoje druge uradne jezike, razen če mora prevajanje zagotoviti ena od strank v postopku.

(6) Izjave uslužbencev Evropskega patentnega urada, strank v postopku, prič in izvedencev, dane med ustnim postopkom v enem od uradnih jezikov Evropskega patentnega urada, se vnesejo v zapisnik v tem jeziku. Izjave, dane v kakem drugem jeziku, se vnesejo v uradnem jeziku, v katerega so prevedene. Spremembe besedila opisa ali zahtevkov evropske patentne prijave ali evropskega patenta se vnesejo v zapisnik v jeziku postopka.

**3. pravilo
(črtano)****4. pravilo****Jezik evropske izločene prijave**

Evropske izločene prijave ali njihovi prevodi po drugem odstavku 14. člena morajo biti vloženi v jeziku postopka prejšnje evropske patentne prijave.

**5. pravilo
Overitev prevodov**

Kadar je treba vložiti prevod kakega dokumenta, lahko Evropski patentni urad zahteva, da se v roku, ki ga določi, vložijo potrdilo, da prevod ustreza izvirnemu besedilu. Če

period to be determined by it. Failure to file the certificate in due time shall lead to the document being deemed not to have been received unless the Convention provides otherwise.

Rule 6

Time limits and reduction of fees

(1) The translation referred to in Article 14, paragraph 2, must be filed within three months after the filing of the European patent application, but no later than thirteen months after the date of priority. Nevertheless, if the translation concerns a European divisional application or a new European patent application under Article 61, paragraph 1(b), the translation may be filed at any time within one month of the filing of such application.

(2) The translation referred to in Article 14, paragraph 4, must be filed within one month of the filing of the document. Where the document is a notice of opposition or an appeal, this period shall be extended where appropriate to the end of the opposition period or appeal period.

(3) A reduction in the filing fee, examination fee, opposition fee or appeal fee shall be allowed an applicant, proprietor or opponent, as the case may be, who avails himself of the options provided in Article 14, paragraphs 2 and 4. The reduction shall be fixed in the Rules relating to Fees at a percentage of the total of the fees.

Rule 7

Legal authenticity of the translation of the European patent application

Saving proof to the contrary, the European Patent Office may, for the purposes of determining whether the subject-matter of the European patent application or European patent extends beyond the content of the European patent application as filed, assume that the translation referred to in Article 14, paragraph 2, is in conformity with the original text of the application.

Chapter II

Organisation of the European Patent Office

Rule 8

Patent classification

(1) The European Patent Office shall use:

(a) the classification referred to in Article 1 of the European Convention on the International Classification of Patents for Invention of 19 December 1954 until the entry into force of the Strasbourg Agreement concerning the International Patent Classification of 24 March 1971;

(b) the classification referred to in Article 1 of the aforementioned Strasbourg Agreement, after the entry into force of that Agreement.

(2) The classification referred to in paragraph 1 is hereinafter referred to as the international classification.

Rule 9

Allocation of duties to the departments of the first instance

(1) The President of the European Patent Office shall determine the number of Search Divisions, Examining Divisions and Opposition Divisions. He shall allocate duties to these departments by reference to the international classification and shall decide where necessary on the classification of a European patent application or a European patent in accordance with that classification.

potrdilo ni vloženo pravočasno, se šteje, da dokument ni bil prejet, razen če konvencija ne določa drugače.

6. pravilo

Roki in znižanje pristojbin

(1) Prevod iz drugega odstavka 14. člena se mora vložiti v treh mesecih po vložitvi evropske patentne prijave, vendar najkasneje trinajst mesecev po prednostnem datumu. Če gre za prevod izločene evropske patentne prijave ali nove evropske patentne prijave po pododstavku (b) prvega odstavka 61. člena, se lahko prevod vložijo kadar koli v enem mesecu po vložitvi take prijave.

(2) Prevod po četrtem odstavku 14. člena mora biti vложен v enem mesecu po vložitvi dokumenta. Če je dokument ugovor ali pritožba, se ta rok, kadar je primerno, podaljša do konca roka za ugovor ali pritožbo.

(3) Znižanje prijavnih pristojbin ter pristojbin za preizkus, ugovor ali pritožbo se odobri prijavitelju, imetniku patenta oziroma vložniku ugovora, ki izkoristi možnosti, predvidene v drugem in četrtem odstavku 14. člena. Znižanje se določi v pravilniku o pristojbinah v odstotnem deležu od skupnega zneska pristojbin.

7. pravilo

Pravna verodostojnost prevoda evropske patentne prijave

Pri določanju, ali predmet evropske patentne prijave ali evropskega patenta presega vsebino evropske patentne prijave, kot je bila vložena, lahko Evropski patentni urad sklepa, da je prevod po drugem odstavku 14. člena v skladu z izvirnim besedilom prijave, razen če se ne dokaže nasprotno.

II. poglavje

Organizacija Evropskega patentnega urada

8. pravilo

Klasifikacija patentov

(1) Evropski patentni urad uporablja:

(a) klasifikacijo iz 1. člena Evropske konvencije o mednarodni klasifikaciji patentov za izum z dne 19. decembra 1954, dokler ne začne veljati Strasbourški sporazum o mednarodni klasifikaciji patentov z dne 24. marca 1971;

(b) klasifikacijo iz 1. člena omenjenega Strasbourškega sporazuma, potem ko začne ta sporazum veljati.

(2) Klasifikacija iz prvega odstavka se v nadaljnjem besedilu imenuje mednarodna klasifikacija.

9. pravilo

Dodelitev nalog oddelkom na prvi stopnji

(1) Predsednik Evropskega patentnega urada določi število oddelkov za poizvedbe, oddelkov za preizkuse in oddelkov za ugovore. Tem oddelkom dodeli naloge z ozirom na mednarodno klasifikacijo in po potrebi odloča o klasifikaciji evropske patentne prijave ali evropskega patenta v skladu z mednarodno klasifikacijo.

(2) In addition to the responsibilities vested in them under the Convention, the President of the European Patent Office may allocate further duties to the Receiving Section, Search Divisions, Examining Divisions, Opposition Divisions and the Legal Division.

(3) The President of the European Patent Office may entrust to employees who are not technically or legally qualified examiners the execution of individual duties falling to the Examining Divisions or Opposition Divisions and involving no technical or legal difficulties.

(4) The President of the European Patent Office may grant exclusive responsibilities to one of the registries of the Opposition Divisions for fixing the amount of costs as provided for in Article 104, paragraph 2.

Rule 10

Presidium of the Boards of Appeal

(1) The autonomous authority within the organisational unit comprising the Boards of Appeal (the "Presidium of the Boards of Appeal") shall consist of the Vice-President in charge of the Boards of Appeal, who shall act as chairman, and twelve members of the Boards of Appeal, six being Chairmen and six being other members.

(2) All members of the Presidium shall be elected by the Chairmen and members of the Boards of Appeal for one working year. If the full composition of the Presidium cannot be reached, the vacancies shall be filled by designating the most senior Chairmen and members.

(3) The Presidium shall adopt the Rules of Procedure of the Boards of Appeal and the Rules of Procedure for the election and designation of its members. The Presidium shall further advise the Vice-President in charge of the Boards of Appeal with regard to matters concerning the functioning of the Boards of Appeal in general.

(4) Before the beginning of each working year the Presidium, extended to include all Chairmen, shall allocate duties to the Boards of Appeal. In the same composition, it shall decide on conflicts regarding the allocation of duties between two or more Boards of Appeal. The extended Presidium shall designate the regular and alternate members of the various Boards of Appeal. Any member of a Board of Appeal may be designated as a member of more than one Board of Appeal. These measures may, where necessary, be amended during the course of the working year in question.

(5) The Presidium may only take a decision if at least five of its members are present; these must include the Vice-President in charge of the Boards of Appeal or his deputy, and the Chairmen of two Boards of Appeal. Where the tasks mentioned in paragraph 4 are concerned, nine members must be present, including the Vice-President in charge of the Boards of Appeal or his deputy, and the Chairmen of three Boards of Appeal. Decisions shall be taken by a majority vote; in the event of parity of votes, the Chairman or his deputy shall have the casting vote. Abstentions shall not be considered as votes.

(6) The Administrative Council may allocate duties under Article 134, paragraph 8(c), to the Boards of Appeal.

(2) Poleg pristojnosti, ki jih imajo sprejemna pisarna, oddelki za poizvedbe, oddelki za preizkuse, oddelki za ugovore in pravni oddelek po konvenciji, lahko predsednik Evropskega patentnega urada tem oddelkom dodeli še druge naloge.

(3) Predsednik Evropskega patentnega urada lahko naloži uslužbencem, ki niso preizkuševalci tehniki ali preizkuševalci pravniki, opravljanje posameznih nalog, ki sodijo v pristojnost oddelka za preizkuse ali oddelka za ugovore in tehnično ali pravno niso težavne.

(4) Predsednik Evropskega patentnega urada lahko podeli izključne pristojnosti eni od pisarn oddelka za ugovore za določanje zneska stroškov, kot je predvideno v drugem odstavku 104. člena.

10. pravilo

Predsedstvo pritožbenih senatov

(1) Neodvisni organ v organizacijski enoti, ki vključuje pritožbene senate ("predsedstvo pritožbenih senatov") sestavljajo podpredsednik, ki je odgovoren za pritožbene senate in je predsedujoči, ter dvanajst članov pritožbenih senatov, od katerih je šest predsedujočih, šest pa članov.

(2) Vse člane predsedstva izvolijo predsedujoči pritožbenih senatov in njihovi člani za eno poslovno leto. Če predsedstva ni mogoče sestaviti v celoti, so na prazna mesta imenovani predsedujoči in člani z najdaljšim stažem.

(3) Predsedstvo sprejme poslovnik pritožbenih senatov in poslovnik za izvolitev in imenovanje svojih članov. Predsedstvo tudi svetuje podpredsedniku, ki je odgovoren za pritožbene senate, glede zadev, ki se nanašajo na delovanje pritožbenih senatov na splošno.

(4) Pred začetkom vsakega poslovnega leta predsedstvo, razširjeno tako, da vključuje vse predsedujoče, dodeli naloge pritožbenim senatom. V isti sestavi odloča o sporih med dvema ali več pritožbenimi senati glede dodelitve nalog. Razširjeno predsedstvo imenuje stalne člane različnih pritožbenih senatov in njihove namestnike. Vsak član pritožbenega senata je lahko imenovan za člana več pritožbenih senatov. Če je treba, se lahko ti ukrepi med poslovnim letom spremenijo.

(5) Predsedstvo lahko sprejme odločitev le, če je navzočih vsaj pet njegovih članov; med njimi morajo biti podpredsednik, ki je odgovoren za pritožbene senate, ali njegov namestnik in predsedujoča dveh pritožbenih senatov. Če gre za naloge iz četrtega odstavka, mora biti navzočih devet članov, vključno s podpredsednikom, ki je odgovoren za pritožbene senate, ali njegovim namestnikom in predsedujočimi treh pritožbenih senatov. Odločitve se sprejemajo z večino glasov; če je število glasov za in proti enako, je odločilen glas predsedujočega ali njegovega namestnika. Vzdržani glasovi se ne upoštevajo.

(6) Upravni svet lahko dodeli naloge iz pododstavka (c) osmega odstavka 134. člena pritožbenim senatom.

Rule 11**Business distribution scheme for the Enlarged Board of Appeal and adoption of its Rules of Procedure**

(1) Before the beginning of each working year, the members of the Enlarged Board of Appeal who have not been appointed under Article 160, paragraph 2, shall designate the regular and alternate members of the Enlarged Board of Appeal.

(2) The members of the Enlarged Board of Appeal who have not been appointed under Article 160, paragraph 2, shall adopt the Rules of Procedure of the Enlarged Board of Appeal.

(3) Decisions on matters mentioned in paragraphs 1 and 2 may only be taken if at least five members are present, including the Chairman of the Enlarged Board of Appeal or his deputy; in the event of parity of votes, the Chairman or his deputy shall have the casting vote. Abstentions shall not be considered as votes.

Rule 12**Administrative structure of the European Patent Office**

(1) The Examining Divisions and the Opposition Divisions shall be grouped together administratively so as to form Directorates, the number of which shall be laid down by the President of the European Patent Office.

(2) The Directorates, the Legal Division, the Boards of Appeal and the Enlarged Board of Appeal, and the administrative services of the European Patent Office shall be grouped together administratively so as to form Directorates-General. The Receiving Section and the Search Divisions shall be grouped together administratively so as to form a Directorate-General.

(3) Each Directorate-General shall be directed by a Vice-President. The appointment of a Vice-President to a Directorate-General shall be decided upon by the Administrative Council, after the President of the European Patent Office has been consulted.

PART II
IMPLEMENTING REGULATIONS TO
PART II OF THE CONVENTION

Chapter I

Procedure where the applicant or proprietor is not entitled**Rule 13****Suspension of proceedings**

(1) If a third party provides proof to the European Patent Office that he has opened proceedings against the applicant for the purpose of seeking a judgment that he is entitled to the grant of the European patent, the European Patent Office shall stay the proceedings for grant unless the third party consents to the continuation of such proceedings. Such consent must be communicated in writing to the European Patent Office; it shall be irrevocable. However, proceedings for grant may not be stayed before the publication of the European patent application.

11. pravilo**Porazdelitev nalog pri razširjenem pritožbenem senatu in sprejetje njegovega pravilnika**

(1) Pred začetkom vsakega poslovnega leta člani razširjenega pritožbenega senata, ki niso bili imenovani po drugem odstavku 160. člena, imenujejo stalne člane razširjenega pritožbenega senata in njihove namestnike.

(2) Člani razširjenega pritožbenega senata, ki niso bili imenovani po drugem odstavku 160. člena, sprejmejo poslovnik razširjenega pritožbenega senata.

(3) Odločitve o zadevah, omenjenih v prvem in drugem odstavku, se lahko sprejmejo le, če je navzočih vsaj pet članov, vključno s predsedujočim razširjenega pritožbenega senata ali njegovim namestnikom; če je število glasov za in proti enako, je odločilen glas predsedujočega ali njegovega namestnika. Vzdržani glasovi se ne upoštevajo.

12. pravilo**Upravna organiziranost Evropskega patentnega urada**

(1) Oddelki za preizkuse in oddelki za ugovore so upravno združeni v direktije, katerih število določi predsednik Evropskega patentnega urada.

(2) Direktije, pravni oddelek, pritožbeni senati in razširjeni pritožbeni senat ter upravne službe Evropskega patentnega urada so upravno združeni v generalne direktije. Sprejemna pisarna in oddelki za poizvedbe so upravno združeni v eno generalno direktijo.

(3) Vsako generalno direktijo vodi podpredsednik. O imenovanju podpredsednika generalne direktije odloči upravni svet po posvetu s predsednikom Evropskega patentnega urada.

II. DEL
PREDPISI O IZVAJANJU
II. DELA KONVENCIJE

I. poglavje

Postopek, kadar prijavitelj ali imetnik patenta ni upravičenec**13. pravilo****Mirovanje postopka**

(1) Če tretja oseba predloži Evropskemu patentnemu uradu dokaz, da je začela postopek zoper prijavitelja, v katerem naj bi ji bila s sodbo priznana upravičenost do podelitve evropskega patenta, Evropski patentni urad ustavi postopek za podelitev, razen če ta tretja oseba ne privoli, da se ta nadaljuje. Taka privolitev se mora pisno sporočiti Evropskemu patentnemu uradu in je nepreklicna. Vendar pa postopka za podelitev ni mogoče ustaviti pred objavo evropske patentne prijave.

(2) Where proof is provided to the European Patent Office that a decision which has become final has been given in the proceedings concerning entitlement to the grant of the European patent, the European Patent Office shall communicate to the applicant and any other party that the proceedings for grant shall be resumed as from the date stated in the communication unless a new European patent application pursuant to Article 61, paragraph 1(b), has been filed for all the designated Contracting States. If the decision is in favour of the third party, the proceedings may only be resumed after a period of three months of that decision becoming final unless the third party requests the resumption of the proceedings for grant.

(3) When giving a decision on the suspension of proceedings or thereafter the European Patent Office may set a date on which it intends to continue the proceedings pending before it regardless of the stage reached in the proceedings referred to in paragraph 1 opened against the applicant. The date is to be communicated to the third party, the applicant and any other party. If no proof has been provided by that date that a decision which has become final has been given, the European Patent Office may continue proceedings.

(4) If a third party provides proof to the European Patent Office during opposition proceedings or during the opposition period that he has opened proceedings against the proprietor of the European patent for the purpose of seeking a judgment that he is entitled to the European patent, the European Patent Office shall stay the opposition proceedings unless the third party consents to the continuation of such proceedings. Such comment must be communicated in writing to the European Patent Office; it shall be irrevocable. However, the suspension of the proceedings may not be ordered until the Opposition Division has deemed the opposition admissible. Paragraphs 2 and 3 shall apply *mutatis mutandis*.

(5) The time limits in force at the date of suspension other than time limits for payment of renewal fees shall be interrupted by such suspension. The time which has not yet elapsed shall begin to run as from the date on which proceedings are resumed; however, the time still to run after the resumption of the proceedings shall not be less than two months.

Rule 14

Limitation of the option to withdraw the European patent application

As from the time when a third party proves to the European Patent Office that he has initiated proceedings concerning entitlement and up to the date on which the European Patent Office resumes the proceedings for grant, neither the European patent application nor the designation of any Contracting State may be withdrawn.

Rule 15

Filing of a new European patent application by the person entitled to apply

(1) Where the person adjudged by a final decision to be entitled to the grant of the European patent files a new European patent application pursuant to Article 61, paragraph 1(b), the original European patent application shall be deemed to be withdrawn on the date of filing of the new application for the Contracting States designated therein in which the decision has been taken or recognised.

(2) Ko se Evropskemu patentnemu uradu predloži dokaz, da je bila v postopku za priznanje upravičenosti do podelitve evropskega patenta izdana končna odločitev, Evropski patentni urad sporoči prijavitelju in vsem drugim, da se bo postopek za podelitev nadaljeval z dnem, navedenim v tem sporočilu, razen če ni bila po pododstavku (b) prvega odstavka 61. člena vložena nova evropska patentna prijava za vse imenovane države pogodbenice. Če pa je odločitev v korist tretje osebe, se sme postopek nadaljevati šele po treh mesecih od dneva, ko je ta odločitev postala dokončna, razen če ta tretja oseba ne zahteva nadaljevanja postopka za podelitev.

(3) Ob izdaji odločitve o mirovanju postopka ali pozneje lahko Evropski patentni urad določi datum, ko namerava nadaljevati postopek, ki ga je začel, ne glede na doseženo fazo postopka zoper prijavitelja iz prvega odstavka. Datum je treba sporočiti tretji osebi, prijavitelju in vsem drugim. Če se do tega datuma ne predloži dokaz, da je bila izdana končna odločitev, lahko Evropski patentni urad postopek nadaljuje.

(4) Če tretja oseba med postopkom ugovora ali med rokom za ugovor Evropskemu patentnemu uradu predloži dokaz, da je začela postopek zoper imetnika evropskega patenta, v katerem naj bi ji bila s sodbo priznana upravičenost do evropskega patenta, Evropski patentni urad ustavi postopek ugovora, razen če ta tretja oseba ne privoli, da se tak postopek nadaljuje. Tako privolitev je treba pisno sporočiti Evropskemu patentnemu uradu in je nepreklicna. Vendar se sme mirovanje postopka odrediti šele, ko oddelek za ugovore presodi, da je ugovor dopusten. Drugi in tretji odstavek se uporabljata smiselno.

(5) Rok, ki veljajo na datum začasne ustavitve postopka, razen rokov za plačilo letnih pristojbin, se s tako ustavitvijo prekinejo. Rok, ki še ni potekel, začne ponovno teči z datumom, ko se postopek spet nadaljuje; vendar pa rok, ki še teče po nadaljevanju postopka, ne sme biti krajši od dveh mesecev.

14. pravilo

Omejitev možnosti umika evropske patentne prijave

Od dneva, ko tretja oseba Evropskemu patentnemu uradu dokaže, da je začela postopek za pridobitev upravičenosti, pa do dneva, ko Evropski patentni urad spet nadaljuje postopek za podelitev, se ne more umakniti niti evropska patentna prijava niti imenovanje države pogodbenice.

15. pravilo

Vložitev nove evropske patentne prijave s strani osebe, ki je do tega upravičena

(1) Če oseba, ki ji je bila s končno odločitvijo prisojena upravičenost do podelitve evropskega patenta, vloži novo evropsko patentno prijavo na podlagi pododstavka (b) prvega odstavka 61. člena, se prvotna evropska patentna prijava šteje za umaknjeno z dnem vložitve nove prijave za države pogodbenice, ki so v njej imenovane in v katerih je bila omenjena odločitev sprejeta ali priznana.

(2) The filing fee and search fee shall be payable in respect of the new European patent application within one month after the filing thereof. The designation fees shall be payable within six months of the date on which the European Patent Bulletin mentions the publication of the European search report drawn up in respect of the new European patent application.

(3) The time limits for forwarding European patent applications provided for in Article 77, paragraphs 3 and 5, shall, for the new European patent application, be four months as from the actual filing date of that application.

Rule 16

Partial transfer of right by virtue of a final decision

(1) If by a final decision it is adjudged that a third party is entitled to the grant of a European patent in respect of only part of the matter disclosed in the European patent application, Article 61 and Rule 15 shall apply *mutatis mutandis* to such part.

(2) Where appropriate, the original European patent application shall contain, for the designated Contracting States in which the decision was taken or recognised, claims, a description and drawings which are different from those for the other designated Contracting States.

(3) Where a third party has, in accordance with Article 99, paragraph 5, replaced the previous proprietor for one or some of the designated Contracting States, the patent as maintained in opposition proceedings may contain for these States claims, a description and drawings which are different from those for the other designated Contracting States.

Chapter II

Mention of the inventor

Rule 17

Designation of the inventor

(1) The designation of the inventor shall be filed in the request for the grant of a European patent. However, if the applicant is not the inventor or is not the sole inventor, the designation shall be filed in a separate document; the designation must state the family name, given names and full address of the inventor and the statement referred to in Article 81 and shall bear the signature of the applicant or his representative.

(2) The European Patent Office shall not verify the accuracy of the designation of the inventor.

(3) If the applicant is not the inventor or is not the sole inventor, the European Patent Office shall inform the designated inventor of the data in the document designating him and the further data mentioned in Article 128, paragraph 5.

(4) The applicant and the inventor may invoke neither the omission of the notification under paragraph 3 nor any errors contained therein.

Rule 18

Publication of the mention of the inventor

(1) The person designated as the inventor shall be mentioned as such in the published European patent application and the European patent specification, unless the said person informs the European Patent Office in writing that he waives his right to be thus mentioned.

(2) In the event of a third party filing with the European Patent Office a final decision whereby the applicant for or proprietor of a patent is required to designate him as the inventor, the provisions of paragraph 1 shall apply.

(2) Za novo evropsko patentno prijavo je treba v enem mesecu po vložitvi plačati prijavno pristojbino in pristojbino za poizvedbo. Pristojbine za imenovanje se plačajo v šestih mesecih od datuma, na katerega je bila v Evropskem patentnem biltnu omenjena objava evropskega poročila o poizvedbi, sestavljenega za novo evropsko patentno prijavo.

(3) Roka, predvidena v tretjem in petem odstavku 77. člena, v katerih se morajo evropske patentne prijave poslati naprej, sta za novo evropsko patentno prijavo štiri mesece, šteto od dejanskega datuma vložitve te prijave.

16. pravilo

Delni prenos pravice na podlagi končne odločitve

(1) Če je s končno odločitvijo tretji osebi prisojena upravičenost do podelitve evropskega patenta samo za del predmeta, razkritega v evropski patentni prijavi, se za ta del smiselno uporabljata 61. člen in 15. pravilo.

(2) Kadar je primerno, vsebuje prvotna evropska patentna prijava za imenovane države pogodbenice, v katerih je bila odločitev sprejeta ali priznana, patentne zahtevke, opis in skice, ki se razlikujejo od tistih za druge imenovane države pogodbenice.

(3) Če je tretja oseba v skladu s petim odstavkom 99. člena nadomestila prejšnjega imetnika za eno ali več imenovanih držav pogodbenic, lahko patent, kot je vzdrževan v postopku ugovora, vsebuje za te države patentne zahtevke, opis in skice, ki se razlikujejo od tistih za druge imenovane države pogodbenice.

II. poglavje

Omemba izumitelja

17. pravilo

Imenovanje izumitelja

(1) Izumitelj se imenuje v zahtevi za podelitev evropskega patenta. Če prijavitelj ni izumitelj ali ni edini izumitelj, se zahteva imenovanje z ločenim dokumentom; imenovanje mora obsegati priimek, imena in popoln naslov izumitelja, izjavo iz 81. člena in podpis prijavitelja ali njegovega zastopnika.

(2) Evropski patentni urad ne preverja točnosti imenovanja izumitelja.

(3) Če prijavitelj ni izumitelj ali ni edini izumitelj, Evropski patentni urad sporoči imenovanemu izumitelju podatke iz dokumenta o njegovem imenovanju in druge podatke, omenjene v petem odstavku 128. člena.

(4) Prijavitelj in izumitelj se ne moreta sklicevati na to, da jima ni bilo poslano uradno obvestilo po tretjem odstavku, ali na napake v njem.

18. pravilo

Objava omembe izumitelja

(1) Oseba, imenovana kot izumitelj, se kot taka omeni v objavljeni evropski patentni prijavi in v evropskem patentnem spisu, razen če pisno ne obvesti Evropskega patentnega urada, da se odpoveduje pravici do take omembe.

(2) Če tretja oseba vložijo pri Evropskem patentnem uradu končno odločitev, po kateri mora prijavitelj ali imetnik patenta imenovati tretjo osebo kot izumitelja, se uporabljajo določbe prvega odstavka.

Rule 19**Rectification of the designation of an inventor**

(1) An incorrect designation of an inventor may not be rectified save upon request, accompanied by the consent of the wrongly designated person and, in the event of such request not being filed by the applicant for or proprietor of the European patent, by the consent of that party. The provisions of Rule 17 shall apply *mutatis mutandis*.

(2) In the event of an incorrect mention of the inventor having been entered in the Register of European Patents or published in the European Patent Bulletin such entry or publication shall be corrected.

(3) Paragraph 2 shall apply *mutatis mutandis* to the cancellation of an incorrect designation of the inventor.

Chapter III

Registering transfers, licences and other rights**Rule 20****Registering a transfer**

(1) A transfer of a European patent application shall be recorded in the Register of European Patents at the request of an interested party and on production of documents satisfying the European Patent Office that the transfer has taken place.

(2) The request shall not be deemed to have been filed until such time as an administrative fee has been paid. It may be rejected only in the event of failure to comply with the conditions laid down in paragraph 1.

(3) A transfer shall have effect *vis-à-vis* the European Patent Office only when and to the extent that the documents referred to in paragraph 1 have been produced.

Rule 21**Registering of licences and other rights**

(1) Rule 20, paragraphs 1 and 2, shall apply *mutatis mutandis* to the registration of the grant or transfer of a licence, the establishment or transfer of a right in rem in respect of a European patent application and any legal means of execution of such an application.

(2) The registration referred to in paragraph 1 shall be cancelled upon request, which shall not be deemed to have been filed until an administrative fee has been paid. Such request shall be supported either by documents establishing that the right has lapsed, or by a declaration whereby the proprietor of the right consents to the cancellation of the registration; it may be rejected only if these conditions are not fulfilled.

Rule 22**Special indications for the registration of a licence**

(1) A licence in respect of a European patent application shall be recorded in the Register of European Patents as an exclusive licence if the applicant and the licensee so require.

(2) A licence in respect of a European patent application shall be recorded in the Register of European Patents as a sub-licence where it is granted by a licensee whose licence is recorded in the said Register.

19. pravilo**Popravek imenovanja izumitelja**

(1) Nepravilno imenovanje izumitelja se lahko popravi samo na zahtevo, ki ji je priloženo soglasje napačno imenovane osebe, če pa te zahteve ne vložijo prijavitelj ali imetnik evropskega patenta, tudi soglasje prijavitelja ali imetnika. Določbe 17. pravila se uporabljajo smiselno.

(2) Če je bila nepravilna omemba izumitelja vpisana v evropski patentni register ali objavljena v Evropskem patentnem biltenu, se tak vpis ali objava popravi.

(3) Drugi odstavek se smiselno uporablja za razveljavitev nepravilnega imenovanja izumitelja.

III. poglavje

Vpis prenosov, licenc in drugih pravic**20. pravilo****Vpis prenosa**

(1) Prenos evropske patentne prijave se vpiše v evropski patentni register na zahtevo zainteresirane stranke in ob predložitvi dokumentov, s katerimi se Evropskemu patentnemu uradu dokaže, da je bil prenos opravljen.

(2) Zahteva se šteje za vloženo šele, ko je plačana upravna pristojbina. Zavrne se lahko le, če niso izpolnjeni pogoji iz prvega odstavka.

(3) Prenos velja za Evropski patentni urad šele, ko so mu bili predloženi dokumenti iz prvega odstavka, in sicer samo v obsegu, ki iz njih izhaja.

21. pravilo**Vpis licenc in drugih pravic**

(1) Prvi in drugi odstavek 20. pravila se smiselno uporabljata za vpis podelitve ali prenosa licence, vzpostavitve ali prenosa stvarne pravice do evropske patentne prijave in vseh pravnih sredstev izvršbe na podlagi take prijave.

(2) Vpis iz prvega odstavka se razveljavi na zahtevo, ki se šteje za vloženo šele po plačilu upravne pristojbine. K zahtevi je treba priložiti dokumente, iz katerih izhaja, da pravica ne obstaja več, ali izjavo imetnika pravice, da se strinja z razveljavitvijo vpisa; zahteva se lahko zavrne le, če niso izpolnjeni ti pogoji.

22. pravilo**Posebne navedbe pri vpisu licence**

(1) Licenca iz evropske patentne prijave se vpiše v evropski patentni register kot izključna licenca, če tako zahtevata prijavitelj in uporabnik licence.

(2) Licenca iz evropske patentne prijave se vpiše v evropski patentni register kot podlicenca, če jo je dal uporabnik licence, ki je vpisana v omenjeni register.

Chapter IV
Certification of exhibition

Rule 23
Certificate of exhibition

The applicant must, within four months of the filing of the European patent application, file the certificate referred to in Article 55, paragraph 2, issued at the exhibition by the authority responsible for the protection of industrial property at that exhibition, and stating that the invention was in fact exhibited there. This certificate shall also state the opening date of the exhibition and, where the first disclosure of the invention did not coincide with the opening date of the exhibition, the date of the first disclosure. This certificate must be accompanied by an identification of the invention, duly authenticated by the above-mentioned authority.

Chapter V
Prior European applications

Rule 23a
Prior application as state of the art

A European patent application shall be considered as comprised in the state of the art under Article 54, paragraphs 3 and 4, only if the designation fees under Article 79, paragraph 2, have been validly paid.

Chapter VI
Biotechnological inventions

Rule 23b
General and definitions

(1) For European patent applications and patents concerning biotechnological inventions, the relevant provisions of the Convention shall be applied and interpreted in accordance with the provisions of this chapter. Directive 98/44/EC of 6 July 1998 on the legal protection of biotechnological inventions shall be used as a supplementary means of interpretation.

(2) "Biotechnological inventions" are inventions which concern a product consisting of or containing biological material or a process by means of which biological material is produced, processed or used.

(3) "Biological material" means any material containing genetic information and capable of reproducing itself or being reproduced in a biological system.

(4) "Plant variety" means any plant grouping within a single botanical taxon of the lowest known rank, which grouping, irrespective of whether the conditions for the grant of a plant variety right are fully met, can be:

- (a) defined by the expression of the characteristics that results from a given genotype or combination of genotypes,
- (b) distinguished from any other plant grouping by the expression of at least one of the said characteristics, and
- (c) considered as a unit with regard to its suitability for being propagated unchanged.

(5) A process for the production of plants or animals is essentially biological if it consists entirely of natural phenomena such as crossing or selection.

(6) "Microbiological process" means any process involving or performed upon or resulting in microbiological material.

IV. poglavje
Potrditev razstavitve izuma

23. pravilo
Potrdilo o razstavitvi izuma

Prijavitelj mora v štirih mesecih po vložitvi evropske patentne prijave vložiti potrdilo iz drugega odstavka 55. člena, ki ga med razstavo izda organ, pristojen za varstvo industrijske lastnine na tej razstavi, v katerem je navedeno, da je bil izum tam dejansko razstavljen. V tem potrdilu je naveden tudi datum odprtja razstave in datum prvega razkritja izuma, če ta ne sovпада z datumom odprtja razstave. Potrdilu morajo biti priloženi dokumenti za identifikacijo izuma, ki jih je overil prej omenjeni organ.

V. poglavje
Prejšnje evropske prijave

23.a pravilo
Prejšnja prijava kot stanje tehnike

Evropska patentna prijava velja za obseženo s stanjem tehnike po tretjem in četrtem odstavku 54. člena le, če so bile veljavno plačane pristojbine za imenovanje po drugem odstavku 79. člena.

VI. poglavje
Biotehnoški izumi

23.b pravilo
Splošno in opredelitev pojmov

(1) Za evropske patentne prijave in patente, ki zadevajo biotehnoške izume, se ustrezne določbe konvencije uporabljajo in razlagajo v skladu z določbami tega poglavja. Direktiva ES št. 98/44 z dne 6. julija 1998 o pravnem varstvu biotehnoških izumov se uporablja kot dopolnilno sredstvo pri razlagi.

(2) "Biotehnoški izumi" so izumi, ki se nanašajo na proizvod, ki sestoji iz biološkega materiala ali tak material vsebuje, ali postopek, ki omogoča proizvodnjo, obdelavo ali uporabo biološkega materiala.

(3) "Biološki material" pomeni vsak material, ki vsebuje genske informacije in se lahko sam reproducira ali se da reproducirati v biološkem sistemu.

(4) "Rastlinska sorta" pomeni vsako rastlinsko skupino znotraj enega samega botaničnega taksona najnižje znane stopnje, ki se ne glede na to, ali so pogoji za podelitev pravice do rastlinske sorte v celoti izpolnjeni, lahko:

- (a) določi z izrazom značilnosti, ki izvirajo iz danega genotipa ali kombinacije genotipov;
- (b) loči od vsake druge rastlinske skupine z izrazom vsaj ene od omenjenih značilnosti; in
- (c) obravnava kot enota glede na zmožnost, da se nespremenjeno razmnožuje.

(5) Postopek za pridobivanje rastlin ali živali je v bistvu biološki, če sestoji v celoti iz naravnih pojavov, kot sta križanje ali selekcija.

(6) "Mikrobiološki postopek" pomeni vsak postopek, pri katerem je uporabljen mikrobiološki material ali je na mikrobiološkem materialu opravljen poseg ali s takim postopkom mikrobiološki material nastane.

Rule 23c**Patentable biotechnological inventions**

Biotechnological inventions shall also be patentable if they concern:

(a) biological material which is isolated from its natural environment or produced by means of a technical process even if it previously occurred in nature;

(b) plants or animals if the technical feasibility of the invention is not confined to a particular plant or animal variety;

(c) a microbiological or other technical process, or a product obtained by means of such a process other than a plant or animal variety.

Rule 23d**Exceptions to patentability**

Under Article 53(a), European patents shall not be granted in respect of biotechnological inventions which, in particular, concern the following:

(a) processes for cloning human beings;

(b) processes for modifying the germ line genetic identity of human beings;

(c) uses of human embryos for industrial or commercial purposes;

(d) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes.

Rule 23e**The human body and its elements**

(1) The human body, at the various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene, cannot constitute patentable inventions.

(2) An element isolated from the human body or otherwise produced by means of a technical process, including the sequence or partial sequence of a gene, may constitute a patentable invention, even if the structure of that element is identical to that of a natural element.

(3) The industrial application of a sequence or a partial sequence of a gene must be disclosed in the patent application.

PART III
IMPLEMENTING REGULATIONS TO PART III OF THE
CONVENTION

Chapter I

Filing of the European patent application**Rule 24****General provisions**

(1) European patent applications may be filed in writing with the authorities referred to in Article 75 either directly or by post. The President of the European Patent Office may permit European patent applications to be filed by other means of communication and lay down conditions governing their use. He may, in particular, require that within such period as the European Patent Office shall specify written confirmation be supplied reproducing the contents of applications so filed and complying with the requirements of these Implementing Regulations.

23.c pravilo**Biotehnoški izumi, ki jih je mogoče patentirati**

Tudi biotehnoške izume je mogoče patentirati, če se nanašajo na:

(a) biološki material, ki je s tehničnim postopkom izoliran iz svojega naravnega okolja ali je s takim postopkom pridobljen, tudi če je že prej obstajal v naravi;

(b) rastline ali živali, če tehnična izvedljivost izuma ni omejena na neko rastlinsko sorto ali živalsko pasmo;

(c) mikrobiološki ali drug tehnični postopek ali proizvod takega postopka, ki ni rastlinska sorta ali živalska pasma.

23.d pravilo**Izjeme glede možnosti patentiranja**

Po pododstavku (a) 53. člena se evropski patenti ne podelijo za biotehnoške izume, ki se nanašajo zlasti na:

(a) postopke kloniranja človeških bitij;

(b) postopke spreminjanja genetske identitete zarodnih spolnih celic človeških bitij;

(c) uporabo človeških zarodkov za industrijske ali komercialne namene;

(d) postopke spreminjanja genetske identitete živali, ki bi tem povzročali trpljenje, ne da bi imel človek ali žival od tega bistveno medicinsko korist, in na živali, nastale s takimi postopki.

23.e pravilo**Človeško telo in njegovi sestavni deli**

(1) Človeško telo na različnih stopnjah svojega nastajanja in razvoja ter zgolj odkritje enega od njegovih sestavnih delov, vključno z zaporedjem ali delnim zaporedjem gena, ne more biti izum, ki ga je mogoče patentirati.

(2) Sestavni del, ki je izoliran iz človeškega telesa ali je pridobljen kako drugače s tehničnim postopkom, vključno z zaporedjem ali delnim zaporedjem gena, je lahko izum, ki ga je mogoče patentirati, tudi če je zgradba tega sestavnega dela enaka zgradbi naravnega sestavnega dela.

(3) Industrijska uporabljivost zaporedja ali delnega zaporedja gena mora biti razkrita v patentni prijavi.

III. DEL
PREDPISI O IZVAJANJU III. DELA KONVENCIJE

I. poglavje

Vložitev evropske patentne prijave**24. pravilo****Splošne določbe**

(1) Evropske patentne prijave se lahko vložijo pisno neposredno ali po pošti pri organih iz 75. člena. Predsednik Evropskega patentnega urada lahko dovoli, da se evropske patentne prijave vložijo tudi po drugih komunikacijskih sredstvih, in določi pogoje njihove uporabe. Zlasti lahko zahteva, da se v roku, ki ga določi Evropski patentni urad, predloži pisna potrditev, v kateri so ponovljene vsebine tako vloženi prijav in ki izpolnjuje pogoje tega pravilnika o izvajanju.

(2) The authority with which the European patent application is filed shall mark the documents making up the application with the date of their receipt. It shall issue without delay a receipt to the applicant which shall include at least the application number, the nature and number of the documents and the date of their receipt.

(3) If the European patent application is filed with an authority mentioned in Article 75, paragraph 1(b), it shall without delay inform the European Patent Office of receipt of the documents making up the application. It shall inform the European Patent Office of the nature and date of receipt of the documents, the application number and any priority date claimed.

(4) When the European Patent Office has received a European patent application which has been forwarded by a central industrial property office of a Contracting State, it shall inform the applicant accordingly, indicating the date of its receipt at the European Patent Office.

Rule 25

Provisions for European divisional applications

(1) The applicant may file a divisional application relating to any pending earlier European patent application.

(2) The filing fee and search fee shall be payable in respect of a European divisional application within one month after the filing thereof. The designation fees shall be payable within six months of the date on which the European Patent Bulletin mentions the publication of the European search report drawn up in respect of the European divisional application.

Chapter II

Provisions governing the application

Rule 26

Request for grant

(1) The request for the grant of a European patent shall be filed on a form drawn up by the European Patent Office. Printed forms shall be made available to applicants free of charge by the authorities referred to in Article 75, paragraph 1.

(2) The request shall contain:

(a) a petition for the grant of a European patent;

(b) the title of the invention, which shall clearly and concisely state the technical designation of the invention and shall exclude all fancy names;

(c) the name, address and nationality of the applicant and the State in which his residence or principal place of business is located. Names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s). Names of legal entities, as well as companies considered to be legal entities by reason of the legislation to which they are subject, shall be indicated by their official designations. Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address. They shall in any case comprise all the relevant administrative units, including the house number, if any. It is recommended that the telegraphic and telex address and telephone number be indicated;

(d) if the applicant has appointed a representative, his name and the address of his place of business under the conditions contained in sub-paragraph (c);

(2) Organ, pri katerem je vložena evropska patentna prijava, označi na dokumentih, ki sestavljajo prijavo, datum njihovega prejema. Prijavitelju takoj izda potrdilo o prejemu, ki vsebuje vsaj številko prijave, vrsto in število dokumentov ter datum njihovega prejema.

(3) Če je evropska patentna prijava vložena pri organu, omenjenem v pododstavku (b) prvega odstavka 75. člena, ta takoj obvesti Evropski patentni urad o prejemu dokumentov, ki sestavljajo prijavo. Evropskemu patentnemu uradu sporoči vrsto in datum prejema dokumentov, številko prijave in vsak zahtevani prednostni datum.

(4) Če je Evropski patentni urad prejel evropsko patentno prijavo od osrednjega urada za industrijsko lastnino države pogodbenice, to sporoči prijavitelju in pri tem navede datum, ko jo je prejel.

25. pravilo

Določbe za izločene evropske prijave

(1) Prijavitelj lahko vloži izločeno prijavo, ki se nanaša na katero koli še nerešeno prvotno evropsko patentno prijavo.

(2) Prijavna pristojbina in pristojbina za poizvedbo se plačata za izločeno evropsko prijavo v enem mesecu po njeni vložitvi. Pristojbine za imenovanje se lahko plačajo v šestih mesecih od datuma, ko je v Evropskem patentnem biltenu omenjena objava evropskega poročila o poizvedbi, sestavljenega za izločeno evropsko prijavo.

II. poglavje

Določbe, ki urejajo prijavo

26. pravilo

Zahteva za podelitev

(1) Zahteva za podelitev evropskega patenta se vloži na obrazcu, ki ga sestavi Evropski patentni urad. Organi iz prvega odstavka 75. člena dajo prijaviteljem brezplačno na razpolago tiskane obrazce.

(2) Zahteva vsebuje:

(a) zahtevek za podelitev evropskega patenta;

(b) naziv izuma, v katerem je jasno in zgoščeno predstavljena tehnična označitev izuma in ne vsebuje nobenih domišljjskih imen;

(c) ime, naslov in državljanstvo prijavitelja ter državo, v kateri ima stalno prebivališče ali sedež podjetja. Za fizične osebe se navedeta priimek in ime, pri čemer mora biti priimek naveden pred imenom. Za pravne osebe ali družbe, ki so po pravu, ki velja zanje, obravnavane kot pravne osebe, se navede njihovo uradno ime. Naslovi se navedejo tako, da so izpolnjene običajne zahteve za hitro poštno dostavo na navedeni naslov. V vsakem primeru morajo naslovi vsebovati vse bistvene podatke, vključno s hišno številko, če obstaja. Priporoča se tudi navedba telegrafskega naslova ter številke teleksa in telefona;

(d) če je prijavitelj imenoval zastopnika, njegovo ime in naslov njegovega sedeža dejavnosti po pogojih iz pododstavka (c);

(e) where appropriate, indication that the application constitutes a European divisional application and the number of the earlier European patent application;

(f) in cases covered by Article 61, paragraph 1(b), the number of the original European patent application;

(g) where applicable, a declaration claiming the priority of an earlier application and indicating the date on which and the country in or for which the earlier application was filed;

(h) designation of the Contracting State or States in which protection of the invention is desired;

(i) the signature of the applicant or his representative;

(j) a list of the documents accompanying the request.

This list shall also indicate the number of sheets of the description, claims, drawings and abstract filed with the request;

(k) the designation of the inventor where the applicant is the inventor.

(3) If there is more than one applicant, the request shall preferably contain the appointment of one applicant or representative as common representative.

Rule 27

Content of the description

(1) The description shall:

(a) specify the technical field to which the invention relates;

(b) indicate the background art which, as far as known to the applicant, can be regarded as useful for understanding the invention, for drawing up the European search report and for the examination, and, preferably, cite the documents reflecting such art;

(c) disclose the invention, as claimed, in such terms that the technical problem (even if not expressly stated as such) and its solution can be understood, and state any advantageous effects of the invention with reference to the background art;

(d) briefly describe the figures in the drawings, if any;

(e) describe in detail at least one way of carrying out the invention claimed using examples where appropriate and referring to the drawings, if any;

(f) indicate explicitly, when it is not obvious from the description or nature of the invention, the way in which the invention is capable of exploitation in industry.

(2) The description shall be presented in the manner and order specified in paragraph 1, unless because of the nature of the invention, a different manner or a different order would afford a better understanding and a more economic presentation.

Rule 27a

Requirements of European patent applications relating to nucleotide and amino acid sequences

(1) If nucleotide or amino acid sequences are disclosed in the European patent application the description shall contain a sequence listing conforming to the rules laid down by the President of the European Patent Office for the standardised representation of nucleotide and amino acid sequences.

(2) The President of the European Patent Office may require that, in addition to the written application documents, a sequence listing in accordance with paragraph 1 be submitted on a data carrier prescribed by him accompanied by a statement that the information recorded on the data carrier is identical to the written sequence listing.

(e) kadar je primerno, navedbo, da gre za izloženo evropsko prijavo, in številko prejšnje evropske patentne prijave;

(f) v primerih iz pododstavka (b) prvega odstavka 61. člena številko prvotne evropske patentne prijave;

(g) kadar je primerno, izjavo, s katero se zahteva prednost prejšnje prijave, z navedbo datuma, ko je bila prejšnja prijava vložena, in države, v kateri ali za katero je bila vložena;

(h) imenovanje države pogodbenice ali držav, v katerih se želi zavarovati izum;

(i) podpis prijavitelja ali njegovega zastopnika;

(j) seznam dokumentov, priloženih k zahtevi. V tem seznamu se navede tudi število listov opisa, patentnih zahtevkov, skic in povzetka, ki se vložijo skupaj z zahtevo;

(k) imenovanje izumitelja, če je prijavitelj izumitelj.

(3) Če je prijaviteljev več, naj bo v zahtevi po možnosti imenovan en prijavitelj ali en zastopnik kot skupni zastopnik.

27. pravilo

Vsebina opisa

(1) Opis:

(a) natančno določa tehnično področje, na katero se nanaša izum;

(b) navaja dotedanje stanje tehnike, ki je, če je prijavitelju znano, lahko koristno za razumevanje izuma, sestavitev evropskega poročila o poizvedbi in za preizkus, ter po možnosti dobesedno navaja dokumente, iz katerih je tako stanje tehnike razvidno;

(c) razkriva izum, kot je naveden v patentnem zahtevku, s takimi izrazi, da je mogoče razumeti tehnični problem (tudi če ni izrecno tako imenovan) in njegovo rešitev, ter navaja vse prednostne učinke izuma glede na dotedanje stanje tehnike;

(d) na kratko opisuje morebitne slike iz skic;

(e) podrobno opisuje vsaj en način izvedbe izuma, za katerega se zahteva varstvo, s tem da se uporabijo primeri, kjer je ustrezno, in sklicevanje na morebitne skice;

(f) izrecno navaja način, na katerega je mogoče izum industrijsko izkoriščati, če to ni očitno iz opisa ali narave izuma.

(2) Opis se izdela na način in po vrstnem redu, ki sta določena v prvem odstavku, razen če zaradi narave izuma drug način ali drug vrstni red ne bi omogočila boljšega razumevanja in smotnejše predstavitve.

27.a pravilo

Zahteve za evropske patentne prijave v zvezi z zaporedji nukleotidov in aminokislin

(1) Če so v evropski patentni prijavi razkrita zaporedja nukleotidov ali aminokislin, vsebuje opis prikaz zaporedij, ki je v skladu s predpisi, ki jih je določil predsednik Evropskega patentnega urada za standardno predstavitev zaporedij nukleotidov in aminokislin.

(2) Predsednik Evropskega patentnega urada lahko zahteva, da se poleg pisnih dokumentov prijave predloži tudi prikaz zaporedij, sestavljen v skladu s prvim odstavkom, na nosilcu podatkov, ki ga predpiše, in da se predloži izjava, da so podatki z nosilca podatkov enaki pisnemu prikazu zaporedij.

(3) If a sequence listing is filed or corrected after the date of filing, the applicant shall submit a statement that the sequence listing so filed or corrected does not include matter which goes beyond the content of the application as filed.

(4) A sequence listing filed after the date of filing shall not form part of the description.

Rule 28

Deposit of biological material

(1) If an invention involves the use of or concerns biological material which is not available to the public and which cannot be described in the European patent application in such a manner as to enable the invention to be carried out by a person skilled in the art, the invention shall only be regarded as being disclosed as prescribed in Article 83 if:

(a) a sample of the biological material has been deposited with a recognised depositary institution not later than the date of filing of the application;

(b) the application as filed gives such relevant information as is available to the applicant on the characteristics of the biological material;

(c) the depositary institution and the accession number of the deposited biological material are stated in the application, and

(d) where the biological material has been deposited by a person other than the applicant, the name and address of the depositor are stated in the application and a document is submitted satisfying the European Patent Office that the latter has authorised the applicant to refer to the deposited biological material in the application and has given his unreserved and irrevocable consent to the deposited material being made available to the public in accordance with this Rule.

(2) The information referred to in paragraph 1(c) and, where applicable, (d) may be submitted

(a) within a period of sixteen months after the date of filing of the application or, if priority is claimed, after the priority date, this time limit being deemed to have been met if the information is communicated before completion of the technical preparations for publication of the European patent application;

(b) up to the date of submission of a request for early publication of the application;

(c) within one month after the European Patent Office has communicated to the applicant that a right to inspect the files pursuant to Article 128, paragraph 2, exists.

The ruling period shall be the one which is the first to expire. The communication of this information shall be considered as constituting the unreserved and irrevocable consent of the applicant to the deposited biological material being made available to the public in accordance with this Rule.

(3) The deposited biological material shall be available upon request to any person from the date of publication of the European patent application and to any person having the right to inspect the files pursuant to Article 128, paragraph 2, prior to that date. Subject to paragraph 4, such availability shall be effected by the issue of a sample of the biological material to the person making the request (hereinafter referred to as "the requester").

(3) Če se prikaz zaporedij vloži ali popravi po datumu vložitve prijave, mora prijavitelj predložiti izjavo, da tako vloženi ali popravljeni prikaz zaporedij ne vključuje ničesar, kar bi presevalo vsebino prijave, kot je bila vložena.

(4) Prikaz zaporedij, ki je vložen po datumu vložitve prijave, ni del opisa.

28. pravilo

Deponiranje biološkega materiala

(1) Če izum vključuje uporabo biološkega materiala ali zadeva biološki material, ki ni dostopen javnosti in ga v evropski patentni prijavi ni mogoče opisati na način, da bi strokovnjak lahko izvedel izum, velja ta za razkritega, kot predpisuje 83. člen, samo:

(a) če je bil vzorec biološkega materiala deponiran pri priznani depozitni ustanovi najkasneje do datuma vložitve prijave;

(b) če prijava, kot je bila vložena, vsebuje vse bistvene podatke o značilnostih biološkega materiala, ki so dostopni prijavitelju;

(c) če sta v prijavi navedeni depozitna ustanova in številka deponiranega biološkega materiala in

(d) kadar je biološki material deponirala oseba, ki ni prijavitelj, če sta v prijavi navedena ime in naslov deponenta in je Evropskemu patentnemu uradu predložen dokument, ki dokazuje, da je deponent pooblastil prijavitelja, da se v prijavi lahko sklicuje na deponirani biološki material, in da je dal absolutno in nepreklicno soglasje, da je deponirani biološki material lahko na razpolago javnosti v skladu s tem pravilom.

(2) Podatki iz pododstavka (c) prvega odstavka in, kadar je primerno, iz pododstavka (d) prvega odstavka se lahko predložijo:

(a) v šestnajstih mesecih po datumu vložitve prijave ali po prednostnem datumu, če se zahteva prednost, pri čemer se šteje, da je bil ta rok upoštevan, če so podatki sporočeni pred zaključkom tehničnih priprav za objavo evropske patentne prijave;

(b) do datuma predložitve zahteve za predčasno objavo prijave;

(c) v enem mesecu od dneva, ko je Evropski patentni urad sporočil prijavitelju, da ima pravico do vpogleda v dokumentacijo na podlagi drugega odstavka 128. člena.

Odločilni rok je tisti, ki prvi poteče. Sporočitev teh podatkov velja kot absolutno in nepreklicno soglasje prijavitelja, da se da deponirani biološki material na razpolago javnosti v skladu s tem pravilom.

(3) Od datuma objave evropske patentne prijave je deponirani biološki material na zahtevo dostopen vsakomur, pred tem datumom pa tistemu, ki ima na podlagi drugega odstavka 128. člena pravico do vpogleda v dokumentacijo. Ob upoštevanju četrtega odstavka se dostop omogoči tako, da se vložniku zahteve izda vzorec biološkega materiala.

Said issue shall be made only if the requester has undertaken vis-à-vis the applicant for or proprietor of the patent not to make the biological material or any biological material derived therefrom available to any third party and to use that material for experimental purposes only, until such time as the patent application is refused or withdrawn or deemed to be withdrawn, or before the expiry of the patent in the designated State in which it last expires, unless the applicant for or proprietor of the patent expressly waives such an undertaking.

The undertaking to use the biological material for experimental purposes only shall not apply in so far as the requester is using that material under a compulsory licence. The term "compulsory licence" shall be construed as including ex officio licences and the right to use patented inventions in the public interest.

(4) Until completion of the technical preparations for publication of the application, the applicant may inform the European Patent Office that

(a) until the publication of the mention of the grant of the European patent or, where applicable,

(b) for twenty years from the date of filing if the application has been refused or withdrawn or deemed to be withdrawn, the availability referred to in paragraph 3 shall be effected only by the issue of a sample to an expert nominated by the requester.

(5) The following may be nominated as an expert:

(a) any natural person provided that the requester furnishes evidence, when filing the request, that the nomination has the approval of the applicant;

(b) any natural person recognised as an expert by the President of the European Patent Office.

The nomination shall be accompanied by a declaration from the expert vis-à-vis the applicant in which he enters into the undertaking given pursuant to paragraph 3 until either the date on which the patent expires in all the designated States or, where the application has been refused, withdrawn or deemed to be withdrawn, until the date referred to in paragraph 4(b), the requester being regarded as a third party.

(6) For the purposes of paragraph 3, derived biological material shall mean any material which still exhibits those characteristics of the deposited material which are essential to carrying out the invention. The undertaking referred to in paragraph 3 shall not impede any deposit of derived biological material necessary for the purpose of patent procedure.

(7) The request provided for in paragraph 3 shall be submitted to the European Patent Office on a form recognised by that Office. The European Patent Office shall certify on the form that a European patent application referring to the deposit of the biological material has been filed, and that the requester or the expert nominated by him is entitled to the issue of a sample of that material. After grant of the European patent, the request shall also be submitted to the European Patent Office.

(8) The European Patent Office shall transmit a copy of the request, with the certification provided for in paragraph 7, to the depositary institution as well as to the applicant for or the proprietor of the patent.

(9) The President of the European Patent Office shall publish in the Official Journal of the European Patent Office the list of depositary institutions and experts recognised for the purpose of this Rule.

Vzorec se izda samo, če je vložnik zahteve glede na prijavitelja ali imetnika patenta prevzel obveznost, da biološkega materiala ali iz njega pridobljenega biološkega materiala ne bo dal na razpolago tretji osebi in da ga bo uporabljal zgolj za raziskovalne namene, dokler patentna prijava ni zavrnjena ali umaknjena ali se ne šteje za umaknjeno ali preden je patent prenehal veljati v tistih imenovanih državah, v katerih najkasneje preneha, razen če se prijavitelj ali imetnik patenta izrecno ne odreče takemu prevzemu obveznosti.

Določba o prevzemu obveznosti, da bo biološki material uporabljal samo v raziskovalne namene, ne velja, če vložnik zahteve uporablja ta material na podlagi prisilne licence. Za prisilne licence se štejejo tudi uradne licence in pravica do uporabe patentiranih izumov zaradi javnega interesa.

(4) Do zaključka tehničnih priprav za objavo prijave lahko prijavitelj sporoči Evropskemu patentnemu uradu, da bo

(a) do objave omembe o podelitvi evropskega patenta ali, kadar je primerno,

(b) dvajset let od datuma vložitve prijave, če je bila ta zavrnjena ali umaknjena ali se šteje za umaknjeno, dostop iz tretjega odstavka omogočen le z izdajo vzorca izvedencu, ki ga imenuje vložnik zahteve.

(5) Kot izvedenec se lahko imenuje:

(a) vsaka fizična oseba, če vložnik zahteve ob vložitvi zahteve predloži dokaz, da se prijavitelj strinja z imenovanjem;

(b) vsaka fizična oseba, ki jo predsednik Evropskega patentnega urada prizna kot izvedenca.

Skupaj z imenovanjem se predloži tudi izjava izvedenca, da prevzema obveznosti do prijavitelja po tretjem odstavku do datuma, ko varstvo patenta preneha v vseh imenovanih državah, če pa je bila prijava zavrnjena, umaknjena ali se šteje za umaknjeno, do datuma iz pododstavka (b) četrtega odstavka, s tem da se vložnik zahteve šteje za tretjo osebo.

(6) Za namene tretjega odstavka pridobljeni biološki material pomeni vsak material, ki še kaže tiste značilnosti deponiranega materiala, ki so bistvene za izvedbo izuma. Obveze iz tretjega odstavka niso ovira za deponiranje pridobljenega biološkega materiala, potrebnega za patentni postopek.

(7) Zahteva iz tretjega odstavka se predloži Evropskemu patentnemu uradu na obrazcu, ki ga ta priznava. Evropski patentni urad na obrazcu potrdi, da je bila vložena evropska patentna prijava, ki se nanaša na deponiranje biološkega materiala, in da ima vložnik zahteve ali izvedenec, ki ga je ta imenoval, pravico do izdaje vzorca tega materiala. Zahteva se predloži Evropskemu patentnemu uradu tudi po podelitvi evropskega patenta.

(8) Evropski patentni urad pošlje kopijo zahteve s potrdilom, predvidenim v sedmem odstavku, depozitni ustanovi in prijavitelju ali imetniku patenta.

(9) Predsednik Evropskega patentnega urada objavi v Uradnem glasilu Evropskega patentnega urada seznam depozitnih ustanov in izvedencev, ki so priznani za namen tega pravila.

Rule 28a**New deposit of biological material**

(1) If biological material deposited in accordance with Rule 28, paragraph 1, ceases to be available from the institution with which it was deposited because:

(a) the biological material is no longer viable, or

(b) for any other reason the depositary institution is unable to supply samples,

and if no sample of the biological material has been transferred to another depositary institution recognised for the purposes of Rule 28, from which it continues to be available, an interruption in availability shall be deemed not to have occurred if a new deposit of the biological material originally deposited is made within a period of three months from the date on which the depositor was notified of the interruption by the depositary institution and if a copy of the receipt of the deposit issued by the institution is forwarded to the European Patent Office within four months from the date of the new deposit stating the number of the application or of the European patent.

(2) In the case provided for in paragraph 1(a), the new deposit shall be made with the depositary institution with which the original deposit was made; in the cases provided for in paragraph 1(b), it may be made with another depositary institution recognised for the purposes of Rule 28.

(3) Where the institution with which the original deposit was made ceases to be recognised for the purposes of Rule 28, either entirely or for the kind of biological material to which the deposited sample belongs, or where that institution discontinues, temporarily or definitively, the performance of its functions as regards deposited biological material, and the notification referred to in paragraph 1 from the depositary institution is not received within six months from the date of such event, the three-month period referred to in paragraph 1 shall begin on the date on which this event is announced in the Official Journal of the European Patent Office.

(4) Any new deposit shall be accompanied by a statement signed by the depositor certifying that the newly deposited biological material is the same as that originally deposited.

(5) If the new deposit has been made under the provisions of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 28 April 1977, the provisions of that Treaty shall prevail.

Rule 29**Form and content of claims**

(1) The claims shall define the matter for which protection is sought in terms of the technical features of the invention. Wherever appropriate claims shall contain:

(a) a statement indicating the designation of the subject-matter of the invention and those technical features which are necessary for the definition of the claimed subject-matter but which, in combination, are part of the prior art;

(b) a characterising portion - preceded by the expression "characterised in that" or "characterised by" - stating the technical features which, in combination with the features stated in sub-paragraph (a), it is desired to protect.

28.a pravilo**Ponovno deponiranje biološkega materiala**

(1) Če biološki material, ki je bil deponiran v skladu s prvim odstavkom 28. pravila, ni več na razpolago v ustanovi, pri kateri je bil deponiran, ker:

(a) biološki material ni več vitalen ali

(b) deponitna ustanova iz kakršnega koli drugega razloga ne more izdati vzorcev,

in če noben vzorec biološkega materiala ni bil poslan drugi deponitni ustanovi, priznani za namene 28. pravila, pri kateri je še vedno na razpolago, se šteje, da dostopnost ni bila prekinjena, če se prvotno deponirani biološki material ponovno deponira v treh mesecih od datuma, ko je deponitna ustanova uradno obvestila deponenta o prekinitvi, in če je bila v štirih mesecih po ponovnem deponiranju Evropskemu patentnemu uradu poslana kopija potrdila o prejemu depozita, ki jo je izdala deponitna ustanova in v kateri je navedena številka prijave ali evropskega patenta.

(2) V primeru, predvidenem v pododstavku (a) prvega odstavka, se ponovni depozit opravi pri deponitni ustanovi, pri kateri je bil opravljen prvotni depozit; v primerih, predvidenih v pododstavku (b) prvega odstavka, se lahko opravi pri drugi deponitni ustanovi, ki je priznana za namene 28. pravila.

(3) Če ustanova, pri kateri je bil opravljen prvotni depozit, ni več priznana za namene 28. pravila bodisi v celoti ali za tisto vrsto biološkega materiala, v katero spada deponirani vzorec, ali če ta ustanova začasno ali dokončno neha opravljati naloge v zvezi z deponiranimi biološkimi materiali in uradno obvestilo deponitne ustanove iz prvega odstavka ni bilo prejeto v šestih mesecih po tem dogodku, začne trimesečni rok iz prvega odstavka teči na datum, ko se ta dogodek objavi v Uradnem glasilu Evropskega patentnega urada.

(4) Ob vsakem ponovnem deponiranju se predloži izjava, ki jo podpiše deponent in s katero se potrjuje, da je ponovno deponirani biološki material isti kot prvotno deponirani.

(5) Če se ponovni depozit opravi po določbah Budimpeštanske pogodbe o mednarodnem priznanju depozita mikroorganizmov za postopek patentiranja z dne 28. aprila 1977, prevladajo določbe te pogodbe.

29. pravilo**Oblika in vsebina patentnih zahtevkov**

(1) Patentni zahtevki z navedbo tehničnih značilnosti izuma določajo predmet, za katerega se zahteva varstvo. Kadar koli je primerno, patentni zahtevki vsebujejo:

(a) izjavo, ki označuje predmet izuma in tiste tehnične značilnosti, ki so potrebne za določitev predmeta, za katerega se zahteva varstvo, vendar so v medsebojni povezavi že del prejšnjega stanja tehnike;

(b) označevalni del, ki ga uvajajo besede "za katerega je značilno, da" ali "katerega značilnost je" in ki navaja tehnične značilnosti, za katere se želi varstvo v povezavi z značilnostmi, navedenimi v pododstavku (a).

(2) Without prejudice to Article 82, a European patent application may contain more than one independent claim in the same category (product, process, apparatus or use) only if the subject-matter of the application involves one of the following:

- (a) a plurality of inter-related products;
- (b) different uses of a product or apparatus;
- (c) alternative solutions to a particular problem, where it is not appropriate to cover these alternatives by a single claim.

(3) Any claim stating the essential features of an invention may be followed by one or more claims concerning particular embodiments of that invention.

(4) Any claim which includes all the features of any other claim (dependent claim) shall contain, if possible at the beginning, a reference to the other claim and then state the additional features which it is desired to protect. A dependent claim shall also be admissible where the claim it directly refers to is itself a dependent claim. All dependent claims referring back to a single previous claim, and all dependent claims referring back to several previous claims, shall be grouped together to the extent and in the most appropriate way possible.

(5) The number of the claims shall be reasonable in consideration of the nature of the invention claimed. If there are several claims, they shall be numbered consecutively in Arabic numerals.

(6) Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings. In particular, they shall not rely on such references as: "as described in part... of the description", or "as illustrated in figure... of the drawings".

(7) If the European patent application contains drawings, the technical features mentioned in the claims shall preferably, if the intelligibility of the claim can thereby be increased, be followed by reference signs relating to these features and placed between parentheses. These reference signs shall not be construed as limiting the claim.

Rule 30 **Unity of invention**

(1) Where a group of inventions is claimed in one and the same European patent application, the requirement of unity of invention referred to in Article 82 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those features which define a contribution which each of the claimed inventions considered as a whole makes over the prior art.

(2) The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

Rule 31 **Claims incurring fees**

(1) Any European patent application comprising more than ten claims at the time of filing shall, in respect of each claim over and above that number, incur payment of a claims

(2) Brez vpliva na 82. člen lahko evropska patentna prijava vsebuje več kot en neodvisni patentni zahtevek iste kategorije (proizvod, postopek, naprava ali uporaba) le, če predmet prijave vključuje:

- (a) množico medsebojno povezanih proizvodov;
- (b) različne uporabe proizvoda ali naprave;
- (c) druge možne rešitve posameznega problema, kadar ni primerno, da se te zajamejo z enim samim patentnim zahtevkom.

(3) Vsakemu patentnemu zahtevku, ki navaja bistvene značilnosti izuma, lahko sledi eden ali več patentnih zahtevkov, ki se nanašajo na posebne izvedbe tega izuma.

(4) Vsak patentni zahtevek, ki vključuje vse značilnosti kakega drugega patentnega zahtevka (odvisni patentni zahtevek), se mora po možnosti na začetku sklicevati na ta drugi patentni zahtevek, nato pa morajo biti v njem navedene dodatne značilnosti, za katere se želi varstvo. Odvisni patentni zahtevek je prav tako dovoljen, če je patentni zahtevek, na katerega se neposredno nanaša, tudi sam odvisni patentni zahtevek. Vsi odvisni patentni zahtevki, ki se nanašajo na en sam prejšnji patentni zahtevek, in vsi odvisni patentni zahtevki, ki se nanašajo na več prejšnjih patentnih zahtevkov, morajo biti, kolikor je mogoče, razvrščeni v skupine na najustreznejši način.

(5) Število patentnih zahtevkov mora biti v razumnih mejah, pri čemer se upošteva narava izuma, za katerega se zahteva varstvo. Če je patentnih zahtevkov več, se po vrsti oštevilčijo z arabskimi številkami.

(6) Patentni zahtevki se glede tehničnih značilnosti izuma ne smejo sklicevati na opis ali skice, če ni res nujno. Zlasti se ne smejo nanje sklicevati z besedami, kot so: "kot je opisano v... delu opisa" ali "kot je prikazano na... sliki skic".

(7) Če evropska patentna prijava vsebuje skice, morajo tehničnim značilnostim, omenjenim v patentnih zahtevkih, če to olajšuje razumevanje patentnega zahtevka, po možnosti slediti sklicevalne oznake, ki se nanašajo na te značilnosti in so postavljene med oklepaje. Te sklicevalne oznake se ne razlagajo kot omejitve patentnega zahtevka.

30. pravilo **Enotnost izuma**

(1) Če se varstvo za skupino izumov zahteva v eni in isti evropski patentni prijavi, je pogoj za enotnost izuma iz 82. člena izpolnjen le, če je med temi izumi tehnična povezava, ki vključuje eno ali več enakih ali podobnih posebnih tehničnih značilnosti. Izraz "posebne tehnične značilnosti" pomeni tiste značilnosti, ki določajo prispevek, s katerim vsak od izumov, za katere se zahteva varstvo, kot celota nadgradi prejšnje stanje tehnike.

(2) Za določitev, ali je skupina izumov povezana tako, da tvori eno samo splošno izumiteljsko zamisel, ni pomembno, ali se varstvo za izume zahteva v ločenih patentnih zahtevkih ali kot različica v enem samem patentnem zahtevku.

31. pravilo **Patentni zahtevki, za katere se plačajo pristojbine**

(1) Za vsako evropsko patentno prijavo, ki ob vložitvi vsebuje več kot deset patentnih zahtevkov, se za vsak patentni zahtevek nad tem številom plača pristojbina za paten-

fee. The claims fee shall be payable within one month after the filing of the application. If the claims fees have not been paid in due time they may still be validly paid within a period of grace of one month of notification of a communication pointing out the failure to observe the time limit.

(2) If a claims fee is not paid within the period referred to in paragraph 1, the claim concerned shall be deemed to be abandoned. Any claims fee duly paid shall be refunded only in the case referred to in Article 77, paragraph 5.

Rule 32 Form of the drawings

(1) On sheets containing drawings, the usable surface area shall not exceed 26.2 cm x 17 cm. These sheets shall not contain frames round the usable or used surface. The minimum margins shall be as follows:

top	2.5 cm
left side	2.5 cm
right side	1.5 cm
bottom	1 cm

(2) Drawings shall be executed as follows:

(a) Drawings shall be executed in durable, black, sufficiently dense and dark, uniformly thick and well-defined, lines and strokes without colourings.

(b) Cross-sections shall be indicated by hatching which should not impede the clear reading of the reference signs and leading lines.

(c) The scale of the drawings and the distinctness of their graphical execution shall be such that reproduction, obtained electronically or photographically, with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty. If, as an exception, the scale is given on a drawing, it shall be represented graphically.

(d) All numbers, letters, and reference signs, appearing on the drawings, shall be simple and clear. Brackets, circles or inverted commas shall not be used in association with numbers and letters.

(e) All lines in the drawings shall, ordinarily, be drawn with the aid of drafting instruments.

(f) Elements of the same figure shall be in proportion to each other, unless a difference in proportion is indispensable for the clarity of the figure.

(g) The height of the numbers and letters shall not be less than 0.32 cm. For the lettering of drawings, the Latin and, where customary, the Greek alphabets shall be used.

(h) The same sheet of drawings may contain several figures. Where figures drawn on two or more sheets are intended to form one whole figure, the figures on the several sheets shall be so arranged that the whole figure can be assembled without concealing any part of the partial figures. The different figures shall be arranged without wasting space, preferably in an upright position, clearly separated from one another. Where the figures are not arranged in an upright position, they shall be presented sideways with the top of the figures at the left side of the sheet. The different figures shall be numbered consecutively in Arabic numerals, independently of the numbering of the sheets.

(i) Reference signs not mentioned in the description and claims shall not appear in the drawings, and vice versa. The same features, when denoted by reference signs, shall, throughout the application, be denoted by the same signs.

(j) The drawings shall not contain text matter, except, when absolutely indispensable, a single word or words such as "water", "steam", "open", "closed", "section on AB",

tne zahtevke. Pristojbina za patentne zahtevke se plača v enem mesecu po vložitvi prijave. Če pristojbine za patentne zahtevke niso pravočasno plačane, so lahko še vedno veljavno plačane v dodatnem enomesečnem roku po uradnem obvestilu o sporočilu, da rok ni bil upoštevan.

(2) Če pristojbina za zahtevke ni plačana v roku iz prvega odstavka, se zadevni patentni zahtevki šteje za opuščenega. Vsaka pravočasno plačana pristojbina za zahtevke se vrne samo v primeru iz petega odstavka 77. člena.

32. pravilo Oblika skic

(1) Na listih, na katerih so skice, uporabna površina ne sme biti večja od 26,2 cm x 17 cm. Listi ne smejo imeti nobenih okvirov okoli delovne ali uporabljene površine. Najmanjši robovi so:

zgornji	2,5 cm
levi	2,5 cm
desni	1,5 cm
spodnji	1 cm

(2) Skice se izdelujejo na naslednji način:

(a) Skice se izdelujejo z obstojnimi, črnimi, dovolj izraženimi in temnimi, enakomerno debelimi in jasnimi črtami brez barvanja in senčenja.

(b) Prerezi se črtkajo, kar pa ne sme zmanjšati vidnosti sklicevalnih oznak in glavnih črt.

(c) Merilo skic in jasnost njihove grafične izdelave morata biti taka, da je mogoče na elektronski ali fotografski reprodukciji z linearnim pomanjšanjem velikosti na 2/3 brez težav razpoznati vse podrobnosti. Če je merilo izjemoma navedeno na skici, mora biti prikazano grafično.

(d) Vse številke, črke in sklicevalne oznake na skicah morajo biti enostavne in jasne. Oklepaji, krogi ali narekovaji se pri številkah in črkah ne uporabljajo.

(e) Vse črte na skicah se praviloma narišejo s priborom za tehnično risanje.

(f) Sestavni deli iste slike morajo biti v pravilnem medsebojnem razmerju, razen če razlika v razmerju ni nujna zaradi jasnosti slike.

(g) Številke in črke morajo biti visoke vsaj 0,32 cm. Za črkovanje na skicah se uporabljata latinska, in kjer je to običajno, grška abeceda.

(h) Na istem listu skic je lahko več slik. Če je ena slika kot celota izdelana na dveh ali več listih, je treba slike na posameznih listih razporediti tako, da je mogoče sestaviti celotno sliko, ne da bi bil zakrit kateri koli del delnih slik. Različne slike je treba razporediti brez nepotrebnega vmesnega prostora, po možnosti pokončno, in jih jasno ločiti med seboj. Če slike niso razporejene pokončno, jih je treba predstaviti podolžno z zgornjim delom slike na levi strani lista. Posamezne slike se po vrsti oštevilčijo z arabskimi številkami ne glede na to, kako so oštevilčeni listi.

(i) V skicah ne sme biti sklicevalnih oznak, ki niso omenjene v opisu in patentnih zahtevkih, in obratno. Iste značilnosti, ki so označene s sklicevalnimi oznakami, morajo imeti v vsej prijavi iste oznake.

(j) V skicah ne sme biti besedila, razen besed, kot so "voda", "para", "odprto", "zaprto", "prerez AB", kadar je to nujno, oziroma nekaj ključnih besed, ki so nujne za razume-

and, in the case of electric circuits and block schematic or flow sheet diagrams, a few short catchwords indispensable for understanding. Any such words shall be placed in such a way that, if required, they can be replaced by their translations without interfering with any lines of the drawings.

(3) Flow sheets and diagrams are considered drawings.

Rule 33

Form and content of the abstract

(1) The abstract shall indicate the title of the invention.

(2) The abstract shall contain a concise summary of the disclosure as contained in the description, the claims and any drawings; the summary shall indicate the technical field to which the invention pertains and shall be drafted in a way which allows the clear understanding of the technical problem, the gist of the solution of that problem through the invention and the principal use or uses of the invention. The abstract shall, where applicable, contain the chemical formula which, among those contained in the application, best characterises the invention. It shall not contain statements on the alleged merits or value of the invention or on its speculative application.

(3) The abstract shall preferably not contain more than one hundred and fifty words.

(4) If the European patent application contains drawings, the applicant shall indicate the figure or, exceptionally, the figures of the drawings which he suggests should accompany the abstract when the abstract is published. The European Patent Office may decide to publish one or more other figures if it considers that they better characterise the invention. Each main feature mentioned in the abstract and illustrated by a drawing shall be followed by a reference sign, placed between parentheses.

(5) The abstract shall be so drafted that it constitutes an efficient instrument for purposes of searching in the particular technical field particularly by making it possible to assess whether there is a need for consulting the European patent application itself.

Rule 34

Prohibited matter

(1) The European patent application shall not contain:

(a) statements or other matter contrary to "ordre public" or morality;

(b) statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of applications or patents of any such person. Mere comparisons with the prior art shall not be considered disparaging per se;

(c) any statement or other matter obviously irrelevant or unnecessary under the circumstances.

(2) If a European patent application contains prohibited matter within the meaning of paragraph 1(a), the European Patent Office shall omit it when publishing the application, indicating the place and number of words or drawings omitted.

(3) If a European patent application contains statements within the meaning of paragraph 1(b), the European Patent Office may omit them when publishing the application. It shall indicate the place and number of words omitted, and shall furnish, upon request, a copy of the passages omitted.

vanje, pri shemah električnih tokokrogov, blokovnih diagramih ali diagramih poteka. Take besede morajo biti postavljene tako, da se lahko nadomestijo s prevodom, če se ta zahteva, ne da bi bile pri tem prekrite črte skic.

(3) Diagrami poteka in drugi diagrami veljajo za skice.

33. pravilo

Oblika in vsebina povzetka

(1) V povzetku je naveden naziv izuma.

(2) Povzetek je zgoščen pregled tega, kar je razkrito v opisu, patentnih zahtevkih in skicah; v njem je navedeno tehnično področje, s katerega je izum, sestavljen pa je tako, da omogoča jasno razumevanje tehničnega problema, bistva rešitve tega problema s pomočjo izuma in glavne uporabe ali glavnih uporab izuma. Če je primerno, povzetek vsebuje kemično formulo, ki izmed formul v evropski patentni prijavi najbolje označuje izum. Povzetek ne sme vsebovati izjav o domnevni vrednosti izuma ali o njegovih teoretičnih možnostih uporabe.

(3) Povzetek naj po možnosti ne bi imel več kot 150 besed.

(4) Če evropska patentna prijava vsebuje skice, navede prijavitelj sliko ali izjemoma slike skic, ki jih predlaga za objavo skupaj s povzetkom. Evropski patentni urad se lahko odloči, da objavi eno ali več drugih slik, če meni, da bolje označujejo izum. Za vsako glavno značilnostjo, ki je omenjena v povzetku in prikazana s skico, stoji sklicevalna oznaka v oklepaju.

(5) Povzetek se sestavi tako, da lahko učinkovito rabi za poizvedbo na določenem tehničnem področju, zlasti pa, da se lahko na njegovi podlagi oceni, ali je potreben vpogled v evropsko patentno prijavo samo.

34. pravilo

Nedovoljeni elementi

(1) Evropska patentna prijava ne sme vsebovati:

(a) izjav ali drugih elementov, ki so v nasprotju z javnim redom ali moralno;

(b) omalovažujočih izjav o proizvodih ali postopkih osebe, ki ni prijavitelj, ali o vrednosti ali veljavnosti prijav ali patentov take osebe. Samo primerjave s prejšnjim stanjem tehnike same po sebi ne pomenijo omalovaževanja;

(c) izjav ali drugih elementov, ki so glede na okoliščine očitno brezpredmetne ali nepotrebne.

(2) Če vsebuje evropska patentna prijava nedovoljene elemente po pododstavku (a) prvega odstavka, jih Evropski patentni urad pri objavi prijave izpusti, pri tem pa navede izpuščeno mesto ter število izpuščenih besed ali skic.

(3) Če evropska patentna prijava vsebuje izjave po pododstavku (b) prvega odstavka, jih lahko Evropski patentni urad pri objavi prijave izpusti. Pri tem navede izpuščeno mesto in število izpuščenih besed ter na zahtevo pošlje kopijo izpuščenih delov besedila.

Rule 35**General provisions governing the presentation of the application documents**

(1) Translations mentioned in Article 14, paragraph 2, shall be considered to be included in the term "documents making up the European patent application".

(2) The documents making up the European patent application shall be filed in three copies. The President of the European Patent Office may, however, determine that the documents shall be filed in fewer than three copies.

(3) The documents making up the European patent application shall be so presented as to admit of electronic as well as of direct reproduction, in particular by scanning, photography, electrostatic processes, photo offset and micro filming, in an unlimited number of copies. All sheets shall be free from cracks, creases and folds. Only one side of the sheet shall be used.

(4) The documents making up the European patent application shall be on A 4 paper (29.7 cm x 21 cm) which shall be pliable, strong, white, smooth, matt and durable. Subject to the provisions of Rule 32, paragraph 2(h), and paragraph 11 of this Rule, each sheet shall be used with its short sides at the top and bottom (upright position).

(5) Each of the documents making up the European patent application (request, description, claims, drawings and abstract) shall commence on a new sheet. The sheets shall be connected in such a way that they can easily be turned over, separated and joined together again.

(6) Subject to Rule 32, paragraph 1, the minimum margins shall be as follows:

top:	2 cm
left side:	2.5 cm
right side:	2 cm
bottom:	2 cm

The recommended maximum for the margins quoted above is as follows:

top:	4 cm
left side:	4 cm
right side:	3 cm
bottom:	3 cm

(7) The margins of the documents making up the European patent application, when submitted, must be completely blank.

(8) All the sheets contained in the European patent application shall be numbered in consecutive Arabic numerals. These shall be placed at the top of the sheet, in the middle, but not in the top margin.

(9) The lines of each sheet of the description and of the claims shall preferably be numbered in sets of five, the numbers appearing on the left side, to the right of the margin.

(10) The request for the grant of a European patent, the description, the claims and the abstract shall be typed or printed. Only graphic symbols and characters and chemical or mathematical formulae may, if necessary, be written by hand or drawn. The typing shall be 1 " spaced. All text matter shall be in characters, the capital letters of which are not less than 0.21 cm high, and shall be in a dark, indelible colour.

(11) The request for the grant of a European patent, the description, the claims and the abstract shall not contain drawings. The description, the claims and the abstract may contain chemical or mathematical formulae. The de-

35. pravilo**Splošne določbe o obliki dokumentov prijave**

(1) Prevodi, omenjeni v drugem odstavku 14. člena, veljajo za "dokumente, ki sestavljajo evropsko patentno prijavo".

(2) Dokumenti, ki sestavljajo evropsko patentno prijavo, se vložijo v treh izvodih. Vendar lahko predsednik Evropskega patentnega urada določi, da se dokumenti vložijo v manj kot treh izvodih.

(3) Dokumenti, ki sestavljajo evropsko patentno prijavo, se predložijo v obliki, ki omogoča elektronsko kot tudi neposredno razmnoževanje, zlasti s skeniranjem, fotografiranjem, elektrostatičnimi postopki, fotoofsetnim tiskom in mikrofilmanjem, in sicer v neomejenem številu izvodov. Listi morajo biti gladki, ne smejo biti zmečkani in ne prepognjeni. Uporablja se samo ena stran listov.

(4) Dokumenti, ki sestavljajo evropsko patentno prijavo, se predložijo na papirju formata A4 (29,7 cm x 21 cm), ki je upogiben, močan, bel, gladek, brez sijaja in obstojen. Ob upoštevanju določb pododstavka (h) drugega odstavka 32. pravila in enajstega odstavka tega pravila se vsak list uporablja tako, da sta njegovi ožji stranici zgoraj in spodaj (pokončni format).

(5) Vsak dokument, ki sestavlja evropsko patentno prijavo (zahteva za podelitev patenta, opis izuma, patentni zahtevki, skice in povzetek), se začne na novem listu. Listi morajo biti spojeni tako, da se zlahka obračajo, izločajo in ponovno sestavljajo z drugimi.

(6) Ob upoštevanju prvega odstavka 32. pravila so najmanjši robovi naslednji:

zgornji:	2 cm
levi:	2,5 cm
desni:	2 cm
spodnji:	2 cm

Priporočene največje mere za zgoraj omenjene robove so:

zgornji:	4 cm
levi:	4 cm
desni:	3 cm
spodnji:	3 cm

(7) Robovi dokumentov, ki sestavljajo evropsko patentno prijavo, morajo biti ob predložitvi popolnoma prazni.

(8) Vsi listi evropske patentne prijave morajo biti oštevilčeni z zaporednimi arabskimi številkami. Številke morajo biti na sredini zgornjega dela lista, vendar ne na zgornjem robu.

(9) Na vsakem listu opisa in patentnih zahtevkov naj bo po možnosti oštevilčena vsaka peta vrsta; številke so na levi strani, desno od roba.

(10) Zahteva za podelitev evropskega patenta, opis, patentni zahtevki in povzetek morajo biti natipkani ali natisnjeni. Samo grafični simboli in znaki ter kemične ali matematične formule so lahko, če je to treba, napisani ročno ali narisani. Razmik med vrsticami natipkanega besedila mora biti 1,5. Vsa besedila morajo biti napisana s črkami, pri čemer so velike črke visoke vsaj 0,21 cm, vse črke pa morajo biti v temni barvi, ki se ne da izbrisati.

(11) Zahteva za podelitev evropskega patenta, opis, patentni zahtevki in povzetek ne smejo vsebovati skic. V opisu, patentnih zahtevkih in povzetku so lahko kemične ali matematične formule. V opisu in povzetku so lahko tabele. V

scription and the abstract may contain tables. The claims may contain tables only if their subject-matter makes the use of tables desirable. Tables and chemical or mathematical formulae may be placed sideways on the sheet if they cannot be presented satisfactorily in an upright position thereon; sheets on which tables or chemical or mathematical formulae are presented sideways shall be so presented that the tops of the tables or formulae are at the left side of the sheet.

(12) Physical values shall be expressed in the units recognised in international practice, wherever appropriate in terms of the metric system using SI units. Any data not meeting this requirement must also be expressed in the units recognised in international practice. For mathematical formulae the symbols in general use shall be employed. For chemical formulae the symbols, atomic weights and molecular formulae in general use shall be employed. In general, use should be made of the technical terms, signs and symbols generally accepted in the field in question.

(13) The terminology and the signs shall be consistent throughout the European patent application.

(14) Each sheet shall be reasonably free from erasures and shall be free from alterations, overwritings and interlineations. Non-compliance with this rule may be authorised if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

Rule 36

Documents filed subsequently

(1) Rules 27, 29 and 32 to 35 shall apply to documents replacing documents making up the European patent application. Rule 35, paragraphs 2 to 14, shall also apply to the translation of the claims referred to in Rule 51.

(2) All documents other than those referred to in the first sentence of paragraph 1 shall normally be typewritten or printed. There must be a margin of about 2.5 cm on the left-hand side of each page.

(3) All documents, with the exception of annexed documents, filed after filing of the European patent application must be signed. If a document has not been signed, the European Patent Office shall invite the party concerned to do so within a time limit to be laid down by that Office. If signed in due time, the document shall retain its original date of receipt; otherwise it shall be deemed not to have been received.

(4) Such documents as must be communicated to other persons or as relate to two or more European patent applications or European patents, must be filed in a sufficient number of copies. If the party concerned does not comply with this obligation in spite of a request by the European Patent Office, the missing copies shall be provided at the expense of the party concerned.

(5) Notwithstanding paragraphs 2 to 4 the President of the European Patent Office may permit documents filed after filing of the European patent application to be transmitted to the European Patent Office by other means of communication and lay down conditions governing their use. He may, in particular, require that within a period laid down by him written confirmation be supplied reproducing the contents of documents so filed and complying with the requirements of these Implementing Regulations; if such confirmation is not supplied in due time, the documents shall be deemed not to have been received.

patentnih zahtevkih so lahko tabele le, če je predmet zahtevkov tak, da je zaželena uporaba tabel. Tabele in kemične ali matematične formule so lahko na listu podolžno, če jih ni mogoče zadovoljivo predstaviti navpično; listi, na katerih so tabele ali kemične ali matematične formule predstavljene podolžno, morajo biti postavljeni tako, da je glava tabel ali formul na levi strani lista.

(12) Fizikalne količine se izražajo v enotah, ki jih priznava mednarodna praksa, in kjer je primerno, v metriskem sistemu, ki uporablja enote SI. Podatki, ki ne izpolnjujejo tega pogoja, morajo biti prav tako izraženi v enotah, ki jih priznava mednarodna praksa. Za matematične formule se uporabljajo simboli, ki so v splošni rabi. Za kemične formule se uporabljajo simboli, atomske mase in molekulske formule, ki so v splošni rabi. Na splošno se uporabljajo taki tehnični izrazi, znaki in simboli, ki so na zadevnem področju splošno sprejeti.

(13) V vsej evropski patentni prijavi se uporabljajo enotni izrazi in znaki.

(14) Vsak list mora biti, če je le mogoče, brez izbrisanih mest in brez sprememb, nič se ne sme pisati čez že napisano besedilo in vstavljati vanj. Odstop od tega pravila se lahko dovoli, če zaradi tega ne postane vprašljiva verodostojnost vsebine in če to ne ogroža kakovostnega razmnoževanja.

36. pravilo

Naknadno vloženi dokumenti

(1) 27., 29. in 32. do 35. pravilo se uporabljajo za dokumente, ki nadomeščajo dokumente, ki sestavljajo evropsko patentno prijavo. Drugi do štirinajsti odstavek 35. pravila se uporabljajo tudi za prevod patentnih zahtevkov iz 51. pravila.

(2) Vsi dokumenti razen tistih iz prvega stavka prvega odstavka so praviloma natipkani ali natisnjeni. Na vsaki strani mora biti levi rob širok približno 2,5 cm.

(3) Vsi dokumenti, ki se vložijo po vložitvi evropske patentne prijave, morajo biti podpisani, razen če gre za priloge. Če dokument ni podpisan, zahteva Evropski patentni urad od zadevne stranke, da ga podpiše v roku, ki ga urad določi. Če je bil dokument pravočasno podpisan, obdrži prvotni datum prejema, sicer pa se šteje, da ni bil prejet.

(4) Dokumenti, ki morajo biti preneseni drugim osebam ali se nanašajo na dve ali več evropskih patentnih prijav ali evropskih patentov, morajo biti vloženi v zadostnem številu izvodov. Če stranka tega ne upošteva kljub zahtevi Evropskega patentnega urada, se manjkajoči izvodi zagotovijo na njene stroške.

(5) Ne glede na drugi do četrty odstavek lahko predsednik Evropskega patentnega urada dovoli, da se dokumenti, ki se vložijo po vložitvi evropske patentne prijave, prenesajo na Evropski patentni urad tudi po drugih komunikacijskih sredstvih, in določi pogoje za njihovo uporabo. Zlasti lahko zahteva, da se v roku, ki ga določi, predloži pisno potrdilo, v katerem je ponovljena vsebina tako vložjenih dokumentov in ki izpolnjuje pogoje iz tega pravilnika; če tako potrdilo ni pravočasno predloženo, se šteje, da dokumenti niso bili prejeti.

Chapter III
Renewal Fees

Rule 37
Payment of renewal fees

(1) Renewal fees for the European patent application in respect of the coming year shall be due on the last day of the month containing the anniversary of the date of filing of the European patent application. Renewal fees may not be validly paid more than one year before they fall due.

(2) An additional fee shall be deemed to have been paid at the same time as the renewal fee within the meaning of Article 86, paragraph 2, if it is paid within the period laid down in that provision.

(3) Renewal fees already due in respect of an earlier application up to the date on which a European divisional application is filed must also be paid for the divisional application and fall due when the latter is filed. These fees and any renewal fee falling due within a period of four months from the filing of the divisional application may be paid without an additional fee within that period. If payment is not made in due time, the renewal fees may still be validly paid within six months of the due date, provided that the additional fee under Article 86, paragraph 2, is paid at the same time.

(4) Renewal fees shall not be payable for a new European patent application filed pursuant to Article 61, paragraph 1(b), in respect of the year in which it was actually filed and any preceding year.

Chapter IV
Priority

Rule 38

Declaration of priority and priority documents

(1) The declaration of priority referred to in Article 88, paragraph 1, shall state the date of the previous filing and the State in or for which it was made and shall indicate the file number.

(2) The date and State of the previous filing must be stated on filing the European patent application; the file number shall be indicated before the end of the sixteenth month after the date of priority.

(3) The copy of the previous application must be filed before the end of the sixteenth month after the date of priority. The copy must be certified as an exact copy of the previous application by the authority which received the previous application and must be accompanied by a certificate issued by that authority stating the date of filing of the previous application.

(4) The copy of the previous application shall be deemed duly filed if a copy of that application available to the European Patent Office is to be included in the file of the European patent application under the conditions laid down by the President of the European Patent Office.

(5) The translation of the previous application required under Article 88, paragraph 1, must be filed within a time limit to be set by the European Patent Office, but at the latest within the time limit under Rule 51, paragraph 4. Alternatively, a declaration may be submitted that the European patent application is a complete translation of the previous application. Paragraph 4 shall apply *mutatis mutandis*.

III. poglavje
Pristojbine za podaljšanje veljavnosti

37. pravilo

Plačilo pristojbin za podaljšanje veljavnosti

(1) Pristojbine za podaljšanje veljavnosti evropske patentne prijave za vsako prihajajoče leto zapadejo v plačilo zadnjega dne v mesecu, v katerem poteče leto dni od vložitve evropske patentne prijave. Pristojbine za podaljšanje veljavnosti se lahko veljavno plačajo največ eno leto pred njihovo zapadlostjo.

(2) Po drugem odstavku 86. člena se dodatna pristojbina šteje za plačano istočasno s pristojbino za podaljšanje veljavnosti, če je plačana v roku, predpisanem v omenjeni določbi.

(3) Pristojbine za podaljšanje veljavnosti prejšnje prijave, ki zapadejo v plačilo do datuma vložitve izločene evropske patentne prijave, morajo biti plačane tudi za izločeno prijavo in zapadejo v plačilo, ko je ta vložena. Te pristojbine in vsaka pristojbina za podaljšanje veljavnosti, ki zapade v plačilo v štirih mesecih od vložitve izločene prijave, se lahko plačajo v tem roku brez dodatne pristojbine. Če plačilo ni pravočasno opravljeno, se lahko pristojbine za podaljšanje veljavnosti še vedno veljavno plačajo v šestih mesecih od datuma zapadlosti, pod pogojem da je istočasno plačana dodatna pristojbina po drugem odstavku 86. člena.

(4) Pristojbine za podaljšanje veljavnosti nove evropske patentne prijave, vložene po pododstavku (b) prvega odstavka 61. člena, se ne plačajo za leto, v katerem je bila ta dejansko vložena, in tudi ne za predhodno leto.

IV. poglavje
Prednost

38. pravilo

Izjava o prednosti in dokumenti o prednosti

(1) V izjavi o prednosti iz prvega odstavka 88. člena se navede datum prejšnje prijave, država, v kateri ali za katero je bila vložena, in številka prijave.

(2) Ob vložitvi evropske patentne prijave se navedeta datum in država prejšnje prijave; številka vložitve prijave se navede pred potekom šestnajstega meseca od datuma prednosti.

(3) Kopija prejšnje prijave se vloži pred potekom šestnajstega meseca od datuma prednosti. Istovetnost kopije s prejšnjo prijavo mora potrditi organ, ki je prejšnjo prijavo prejel, priloženo pa ji mora biti potrdilo tega organa, v katerem je naveden datum vložitve prejšnje prijave.

(4) Šteje se, da je kopija prejšnje prijave pravilno vložena, če je v dokumentacijo evropske patentne prijave po pogojih, ki jih določi predsednik Evropskega patentnega urada, vključena kopija te prijave, ki je na razpolago Evropskemu patentnemu uradu.

(5) Prevod prejšnje prijave, ki se zahteva po prvem odstavku 88. člena, se mora vložiti v roku, ki ga določi Evropski patentni urad, vendar najpozneje v roku po četrtem odstavku 51. pravila. Namesto prevoda se lahko predloži izjava, da je evropska patentna prijava popoln prevod prejšnje prijave. Četrty odstavek se uporablja smiselno.

(6) The particulars stated in the declaration of priority shall appear in the published European patent application and also on the European patent specification.

Rule 38a

Issuing priority documents

On request, the European Patent Office shall issue a certified copy of the European patent application (priority document) to the applicant. The President of the European Patent Office shall determine all necessary arrangements, including the form of the priority document and the circumstances in which an administrative fee is payable.

PART IV

IMPLEMENTING REGULATIONS TO PART IV OF THE CONVENTION

Chapter I

Examination by the Receiving Section

Rule 39

Communication following the examination on filing

If the European patent application fails to meet the requirements laid down in Article 80, the Receiving Section shall communicate the disclosed deficiencies to the applicant and inform him that the application will not be dealt with as a European patent application unless he remedies the disclosed deficiencies within one month. If he does so, he shall be informed of the date of filing.

Rule 40

Examination for certain physical requirements

The physical requirements which a European patent application must satisfy pursuant to Article 91, paragraph 1(b), shall be those prescribed in Rule 27a, paragraphs 1 to 3, Rule 32, paragraphs 1 and 2, Rule 35, paragraphs 2 to 11 and 14, and Rule 36, paragraphs 2 and 4.

Rule 41

Rectification of deficiencies in the application documents

(1) If the examination provided for in Article 91, paragraph 1(a) to (d), reveals deficiencies in the European patent application, the Receiving Section shall inform the applicant accordingly and invite him to remedy the deficiencies within such period as it shall specify. The description, claims and drawings may be amended only to an extent sufficient to remedy the disclosed deficiencies in accordance with the observations of the Receiving Section.

(2) Paragraph 1 shall not apply where the applicant, while claiming priority, has omitted to indicate on filing the European patent application the date or State of first filing.

(3) Paragraph 1 shall not apply where the examination reveals that the date of the first filing given on filing the European patent application precedes the date of filing of the European patent application by more than one year. In this event the Receiving Section shall inform the applicant that there will be no right of priority for the application unless, within one month, the applicant indicates a corrected date, lying within the year preceding the date of filing of the European patent application.

(6) Podatki iz izjave o prednosti so navedeni v objavljeni evropski patentni prijavi in tudi v evropskem patentnem spisu.

38.a pravilo

Izdaja dokumentov o prednosti

Evropski patentni urad izda prijavitelju na zahtevo overjeno kopijo evropske patentne prijave (dokument o prednosti). Predsednik Evropskega patentnega urada določi vse potrebne podrobnosti, vključno z obliko dokumenta prednosti in primeri, v katerih se plača upravna pristojbina.

IV. DEL

PREDPISI O IZVAJANJU IV. DELA KONVENCIJE

I. poglavje

Preizkus pri sprejemni pisarni

39. pravilo

Sporočilo po preizkusu ob vložitvi

Če evropska patentna prijava ne izpolnjuje pogojev iz 80. člena, sprejemna pisarna sporoči prijavitelju ugotovljene pomanjkljivosti in ga opozori na to, da prijava ne bo obravnavana kot evropska patentna prijava, če ugotovljenih pomanjkljivosti ne bo odpravil v enem mesecu. Če prijavitelj to stori, mu sporoči datum vložitve.

40. pravilo

Preizkus določenih pogojev glede oblike

Pogoji glede oblike, ki jih mora izpolnjevati evropska patentna prijava po pododstavku (b) prvega odstavka 91. člena, so pogoji, predpisani v prvem do tretjem odstavku 27.a pravila, prvem in drugem odstavku 32. pravila, drugem do enajstem in štirinajstem odstavku 35. pravila ter drugem in četrtem odstavku 36. pravila.

41. pravilo

Odpravljanje pomanjkljivosti v dokumentih prijave

(1) Če se s preizkusom, predpisanim v pododstavkih (a) do (d) prvega odstavka 91. člena, ugotovijo pomanjkljivosti v evropski patentni prijavi, sprejemna pisarna to sporoči prijavitelju in ga pozove, da jih odpravi v roku, ki ga določi. Opis izuma, patentni zahtevki in skice se lahko spremenijo samo toliko, da se odpravijo ugotovljene pomanjkljivosti v skladu s pripombami sprejemne pisarne.

(2) Prvi odstavek se ne uporablja, če prijavitelj, ki zahteva prednost, ob vložitvi evropske patentne prijave ni navedel datuma ali države prve vložitve.

(3) Prvi odstavek se ne uporablja, če preizkus pokaže, da je datum prve vložitve, ki je bil naveden ob vložitvi evropske patentne prijave, več kot eno leto pred datumom vložitve evropske patentne prijave. V tem primeru sprejemna pisarna obvesti prijavitelja, da za to prijavo ne obstaja prednostna pravica, razen če prijavitelj v enem mesecu ne navede popravljenega datuma, ki je v letu pred datumom vložitve evropske patentne prijave.

Rule 42**Subsequent identification of the inventor**

(1) If the examination provided for in Article 91, paragraph 1(f), reveals that the inventor has not been identified in accordance with the provisions of Rule 17, the Receiving Section shall inform the applicant that the European patent application shall be deemed to be withdrawn unless this deficiency is corrected within the period prescribed by Article 91, paragraph 5.

(2) In the case of a European divisional application or a new European patent application filed pursuant to Article 61, paragraph 1(b), the time limit for identifying the inventor may in no case expire before two months after the communication referred to in paragraph 1, which shall state the time limit.

Rule 43**Late-filed or missing drawings**

(1) If the examination provided for in Article 91, paragraph 1(g), reveals that the drawings were filed later than the date of filing of the European patent application, the Receiving Section shall inform the applicant that the drawings and the references to the drawings in the European patent application shall be deemed to be deleted unless the applicant requests within a period of one month that the application be re-dated to the date on which the drawings were filed.

(2) If the examination reveals that the drawings were not filed, the Receiving Section shall invite him to file them within one month and inform him that the application will be re-dated to the date on which they are filed, or, if they are not filed in due time, any reference to them in the application shall be deemed to be deleted.

(3) The applicant shall be informed of any new date of filing of the application.

Chapter II

European search report**Rule 44****Content of the European search report**

(1) The European search report shall mention those documents, available to the European Patent Office at the time of drawing up the report, which may be taken into consideration in deciding whether the invention to which the European patent application relates is new and involves an inventive step.

(2) Each citation shall be referred to the claims to which it relates. If necessary, the relevant parts of the documents cited shall be identified (for example, by indicating the page, column and lines or the diagrams).

(3) The European search report shall distinguish between cited documents published before the date of priority claimed, between such date of priority and the date of filing, and on or after the date of filing.

(4) Any document which refers to an oral disclosure, a use or any other means of disclosure which took place prior to the date of filing of the European patent application shall be mentioned in the European search report, together with an indication of the date of publication, if any, of the document and the date of the non-written disclosure.

(5) The European search report shall be drawn up in the language of the proceedings.

42. pravilo**Naknadno imenovanje izumitelja**

(1) Če preizkus, predpisan v pododstavku (f) prvega odstavka 91. člena, pokaže, da izumitelj ni bil imenovan v skladu z določbami 17. pravila, sprejemna pisarna obvesti prijavitelja, da se bo evropska patentna prijava štela za umaknjeno, če pomanjkljivosti ne bo odpravil v roku, predpisanim v petem odstavku 91. člena.

(2) Pri izločeni evropski patentni prijavi ali novi evropski patentni prijavi, vloženi po pododstavku (b) prvega odstavka 61. člena, rok za imenovanje izumitelja v nobenem primeru ne poteče pred potekom dveh mesecev od sporočila iz prvega odstavka, v katerem je rok naveden.

43. pravilo**Naknadno vložene ali manjkajoče skice**

(1) Če preizkus, predpisan v pododstavku (g) prvega odstavka 91. člena, pokaže, da so bile skice vložene po datumu vložitve evropske patentne prijave, sprejemna pisarna obvesti prijavitelja, da se bodo skice in sklicevanje nanje v evropski patentni prijavi šteli za izbrisane, če prijavitelj ne bo v enem mesecu zahteval, da se za datum prijave določi datum, na katerega so bile skice vložene.

(2) Če preizkus pokaže, da skice niso bile vložene, sprejemna pisarna pozove prijavitelja, da jih vloži v enem mesecu, in ga obvesti, da bo za datum prijave določen datum, na katerega bodo vložene, ali da se bo, če ne bodo vložene pravočasno, sklicevanje nanje v prijavi štelo za izbrisano.

(3) Prijavitelj se obvesti o vsakem novem datumu vložitve prijave.

II. poglavje

Evropsko poročilo o poizvedbi**44. pravilo****Vsebina evropskega poročila o poizvedbi**

(1) V evropskem poročilu o poizvedbi se omenijo tisti dokumenti, ki so bili Evropskemu patentnemu uradu na razpolago ob sestavljanju poročila in jih je mogoče upoštevati pri odločitvi, ali je izum, na katerega se nanaša evropska patentna prijava, nov in vključuje stopnjo inventivnosti.

(2) Vsaka navedba mora biti v zvezi s patentnimi zahtevki, na katere se nanaša. Po potrebi se natančneje označijo ustrezni deli navedenih dokumentov (na primer z navedbo strani, stolpca in vrstic ali diagramov).

(3) V evropskem poročilu o poizvedbi mora biti razlika med navedenimi dokumenti, ki so bili objavljeni pred zahtevanim prednostnim datumom, med prednostnim datumom in datumom vložitve ter na datum vložitve ali po njem.

(4) Vsak dokument, ki se nanaša na ustno razkritje, uporabo ali drug način razkritja pred datumom vložitve evropske patentne prijave, se v evropskem poročilu o poizvedbi omeni skupaj z navedbo datuma morebitne objave dokumenta in datuma nepisnega razkritja.

(5) Evropsko poročilo o poizvedbi se sestavi v jeziku postopka.

(6) The European search report shall contain the classification of the subject-matter of the European patent application in accordance with the international classification.

Rule 45
Incomplete search

If the Search Division considers that the European patent application does not comply with the provisions of the Convention to such an extent that it is not possible to carry out a meaningful search into the state of the art on the basis of all or some of the claims, it shall either declare that search is not possible or shall, so far as is practicable, draw up a partial European search report. The declaration and the partial report referred to shall be considered, for the purposes of subsequent proceedings, as the European search report.

Rule 46
European search report where the invention lacks unity

(1) If the Search Division considers that the European patent application does not comply with the requirement of unity of invention, it shall draw up a partial European search report on those parts of the European patent application which relate to the invention, or the group of inventions within the meaning of Article 82, first mentioned in the claims. It shall inform the applicant that if the European search report is to cover the other inventions, a further search fee must be paid, for each invention involved, within a period to be fixed by the Search Division which must not be shorter than two weeks and must not exceed six weeks. The Search Division shall draw up the European search report for those parts of the European patent application which relate to inventions in respect of which search fees have been paid.

(2) Any fee which has been paid under paragraph 1 shall be refunded if, during the examination of the European patent application by the Examining Division, the applicant requests a refund and the Examining Division finds that the communication referred to in the said paragraph was not justified.

Rule 47
Definitive content of the abstract

(1) At the same time as drawing up the European search report, the Search Division shall determine the definitive content of the abstract.

(2) The definitive content of the abstract shall be transmitted to the applicant together with the European search report.

Chapter III
Publication of the European patent application

Rule 48
Technical preparations for publication

(1) The President of the European Patent Office shall determine when the technical preparations for publication of the European patent application are to be deemed to have been completed.

(2) The European patent application shall not be published if it has been finally refused or withdrawn or deemed to be withdrawn before the termination of the technical preparations for publication.

(6) Evropsko poročilo o poizvedbi vsebuje klasifikacijo predmeta evropske patentne prijave v skladu z mednarodno klasifikacijo.

45. pravilo
Nepopolna poizvedba

Če oddelek za poizvedbe meni, da se evropska patentna prijava toliko razlikuje od določb konvencije, da na podlagi vseh ali nekaterih patentnih zahtevkov ni mogoče opraviti smotrne poizvedbe o stanju tehnike, bodisi izjavi, da poizvedba ni mogoča, ali pa sestavi delno evropsko poročilo o poizvedbi, če je to izvedljivo. Omenjena izjava in delno poročilo veljata za nadaljnji postopek kot evropsko poročilo o poizvedbi.

46. pravilo
Evropsko poročilo o poizvedbi, kadar izum ni enoten

(1) Če oddelek za poizvedbe meni, da evropska patentna prijava ne ustreza zahtevam glede enotnosti izuma, sestavi delno evropsko poročilo o poizvedbi za tiste dele evropske patentne prijave, ki se nanašajo na izum ali skupino izumov po 82. členu, ki so prvi omenjeni v patentnih zahtevkih. Prijavitelja obvesti, da mora za druge izume, ki naj bi bili zajeti v evropskem poročilu o poizvedbi, plačati novo pristojbino za poizvedbo za vsakega od takih izumov v roku, ki ga določi oddelek za poizvedbe in ki ne sme biti krajši od dveh in ne daljši od šestih tednov. Oddelek za poizvedbe sestavi evropsko poročilo o poizvedbi za tiste dele evropske patentne prijave, ki se nanašajo na izume, za katere so bile plačane pristojbine za poizvedbo.

(2) Vsaka pristojbina, ki je bila plačana po prvem odstavku, se vrne, če med preizkusom evropske patentne prijave v oddelku za preizkuse prijavitelj zahteva vračilo in če oddelek za preizkuse ugotovi, da sporočilo iz omenjenega odstavka ni bilo upravičeno.

47. pravilo
Dokončna vsebina povzetka

(1) Ko oddelek za poizvedbe sestavi evropsko poročilo o poizvedbi, določi tudi dokončno vsebino povzetka.

(2) Dokončna vsebina povzetka se pošlje prijavitelju skupaj z evropskim poročilom o poizvedbi.

III. poglavje
Objava evropske patentne prijave

48. pravilo
Tehnične priprave za objavo

(1) Predsednik Evropskega patentnega urada določi, kdaj se šteje, da so tehnične priprave za objavo evropske patentne prijave končane.

(2) Evropska patentna prijava se ne objavi, če je bila dokončno zavržena ali umaknjena ali se je štela za umaknjeno pred zaključkom tehničnih priprav za objavo.

Rule 49**Form of the publication of European patent applications and European search reports**

(1) The President of the European Patent Office shall prescribe the form of the publication of the European patent application and the data which are to be included. The same shall apply where the European search report and the abstract are published separately. The President of the European Patent Office may lay down special conditions for the publication of the abstract.

(2) The designated Contracting States shall be specified in the published European patent application.

(3) If, before the termination of the technical preparations for publication of the European patent application, the claims have been amended pursuant to Rule 86, paragraph 2, the new or amended claims shall be included in the publication in addition to the original claims.

Rule 50**Information about publication**

(1) The European Patent Office shall communicate to the applicant the date on which the European Patent Bulletin mentions the publication of the European search report and shall draw his attention in this communication to the provisions of Article 94, paragraphs 2 and 3.

(2) The applicant may not invoke the omission of the communication provided for in paragraph 1. If a later date than the date of the mention of the publication is specified in the communication, the later date shall be the decisive date as regards the time limit for filing the request for examination unless the error is apparent.

Chapter IV**Examination by the Examining Division****Rule 51****Examination procedure**

(1) In the communication under Article 96, paragraph 1, the European Patent Office shall give the applicant an opportunity to comment on the European search report and to amend, where appropriate, the description, claims and drawings.

(2) In any communication under Article 96, paragraph 2, the Examining Division shall, where appropriate, invite the applicant to correct the deficiencies noted and to amend the description, claims and drawings.

(3) Any communication under Article 96, paragraph 2, shall contain a reasoned statement covering, where appropriate, all the grounds against the grant of the European patent.

(4) Before the Examining Division decides to grant the European patent, it shall inform the applicant of the text in which it intends to grant it, and shall invite him to pay the fees for grant and printing and to file a translation of the claims in the two official languages of the European Patent Office other than the language of the proceedings within a period to be specified, which may not be less than two months or more than four months. The period shall be extended once by a maximum of two months provided the applicant so requests before it expires. If the applicant pays the fees and files the translation within this period, he shall be deemed to have approved the text intended for grant.

49. pravilo**Oblika objave evropske patentne prijave in evropskega poročila o poizvedbi**

(1) Predsednik Evropskega patentnega urada predpiše obliko objave evropske patentne prijave in podatke, ki naj jih vsebuje. Enako velja tudi, kadar se evropsko poročilo o poizvedbi in povzetek objavita ločeno. Predsednik Evropskega patentnega urada lahko določi posebne pogoje za objavo povzetka.

(2) V objavljeni evropski patentni prijavi se navedejo imenovane države pogodbenice.

(3) Če so bili patentni zahtevki spremenjeni na podlagi drugega odstavka 86. pravila pred zaključkom tehničnih priprav za objavo evropske patentne prijave, se v objavo poleg prvotnih patentnih zahtevkov vključijo tudi novi ali spremenjeni patentni zahtevki.

50. pravilo**Obvestilo o objavi**

(1) Evropski patentni urad sporoči prijavitelju datum, na katerega je bila v Evropskem patentnem biltenu omenjena objava evropskega poročila o poizvedbi, in ga v tem sporočilu opozori na določbe drugega in tretjega odstavka 94. člena.

(2) Prijavitelj se ne more sklicevati na to, da mu ni bilo poslano sporočilo, predvideno v prvem odstavku. Če je v sporočilu naveden datum, ki je kasnejši od datuma omembe objave, je glede roka za vložitev zahteve za preizkus odločen ta kasnejši datum, razen če ne gre za očitno napako.

IV. poglavje**Preizkus pri oddelku za preizkuse****51. pravilo****Postopek preizkusa**

(1) V sporočilu po prvem odstavku 96. člena Evropski patentni urad omogoči prijavitelju, da da pripombe k evropskemu poročilu o poizvedbi in da spremeni, kjer je primerno, opis izuma, patentne zahtevke in skice.

(2) V vsakem sporočilu po drugem odstavku 96. člena oddelek za preizkuse, kadar je primerno, pozove prijavitelja, da odpravi ugotovljene pomanjkljivosti in spremeni opis izuma, patentne zahtevke in skice.

(3) Vsako sporočilo po drugem odstavku 96. člena vsebuje obrazložitev, ki obsega, kadar je primerno, vse razloge proti podelitvi evropskega patenta.

(4) Preden oddelek za preizkuse sprejme odločitev o podelitvi evropskega patenta, obvesti prijavitelja o besedilu, v katerem ga namerava podeliti, in ga pozove, da plača pristojbine za podelitev patenta in tiskanje ter vloži prevod patentnih zahtevkov v tistih dveh uradnih jezikih Evropskega patentnega urada, ki nista jezik postopka, v roku, ki ga določi in ki ne sme biti krajši od dveh ali daljši od štirih mesecev. Ta rok se podaljša enkrat za največ dva meseca, če prijavitelj to zahteva pred njegovim potekom. Če prijavitelj plača pristojbine in vloži prevod v tem roku, se šteje, da se strinja z besedilom, v katerem se namerava podeliti patent.

(5) If the applicant, within the period laid down in paragraph 4, requests amendments under Rule 86, paragraph 3, or the correction of errors under Rule 88, he shall, where the claims are amended or corrected, file a translation of the claims as amended or corrected. If the applicant pays the fees and files the translation within this period, he shall be deemed to have approved the grant of the patent as amended or corrected.

(6) If the Examining Division does not consent to an amendment or correction requested under paragraph 5, it shall, before taking a decision, give the applicant an opportunity to submit, within a period to be specified, his observations and any amendments considered necessary by the Examining Division, and, where the claims are amended, a translation of the claims as amended. If the applicant submits such amendments, he shall be deemed to have approved the grant of the patent as amended. If the European patent application is refused, withdrawn or deemed to be withdrawn, the fees for grant and printing, and any claims fees paid under paragraph 7, shall be refunded.

(7) If the European patent application in the text in which the Examining Division intends to grant the European patent comprises more than ten claims, the Examining Division shall invite the applicant to pay claims fees in respect of each additional claim within the period laid down in paragraph 6 unless the said fees have already been paid in accordance with Rule 31, paragraph 1.

(8) If the fees for grant and printing or the claims fees are not paid in due time or if the translation is not filed in due time, the European patent application shall be deemed to be withdrawn.

(8a) If the designation fees become due after the communication under paragraph 4 has been notified, the mention of the grant of the European patent shall not be published until the designation fees have been paid. The applicant shall be informed accordingly.

(9) If a renewal fee becomes due after the communication under paragraph 4 has been notified and before the next possible date for publication of the mention of the grant of the European patent, the mention shall not be published until the renewal fee has been paid. The applicant shall be informed accordingly.

(10) The communication under paragraph 4 shall indicate the designated Contracting States which require a translation pursuant to Article 65, paragraph 1.

(11) The decision to grant the European patent shall state which text of the European patent application forms the basis for the grant of the European patent.

Rule 52

Grant of the European patent to different applicants

Where different persons are entered in the Register of European Patents as applicants in respect of different Contracting States, the Examining Division shall grant the European patent for each Contracting State to the applicant or applicants registered in respect of that State.

(5) Če prijavitelj v roku, določenem v četrtem odstavku, zahteva spremembe po tretjem odstavku 86. pravila ali popravek napak po 88. pravilu, mora ob spremembi ali popravku patentnih zahtevkov vložiti prevod spremenjenih ali popravljenih patentnih zahtevkov. Če prijavitelj plača pristojbine in vложи prevod v tem roku, se šteje, da se strinja s podelitvijo patenta v spremenjeni ali popravljeni obliki.

(6) Če se oddelek za preizkuse ne strinja s spremembo ali popravkom, zahtevanim po petem odstavku, pred odločitvijo omogoči prijavitelju, da v roku, ki ga določi, predloži svoje pripombe in vse spremembe, ki so po mnenju oddelka za preizkuse potrebne, če pa so patentni zahtevki spremenjeni, tudi njihov prevod. Če prijavitelj predloži take spremembe, se šteje, da se strinja s podelitvijo patenta, kot je bil spremenjen. Če se evropska patentna prijava zavrne, umakne ali se šteje za umaknjeno, se povrnejo pristojbine za podelitev patenta in tiskanje ter vse pristojbine za patentne zahtevke, plačane po sedmem odstavku.

(7) Če vsebuje evropska patentna prijava v besedilu, v katerem se namerava podeliti patent, več kot deset patentnih zahtevkov, pozove oddelek za preizkuse prijavitelja, da v roku, določenem v četrtem odstavku, plača pristojbino za vsak dodatni patentni zahtevek, razen če ta pristojbina že ni bila plačana po prvem odstavku 31. pravila.

(8) Če pristojbina za podelitev patenta in tiskanje ali pristojbine za patentne zahtevke niso plačane pravočasno ali če prevod ni predložen pravočasno, se evropska patentna prijava šteje za umaknjeno.

(8a) Če pristojbine za imenovanje zapadejo v plačilo po uradnem obvestilu o sporočilu po četrtem odstavku, se omemba o podelitvi evropskega patenta objavi šele, ko so plačane pristojbine za imenovanje. O tem je treba obvestiti prijavitelja.

(9) Če pristojbina za podaljšanje veljavnosti zapade v plačilo po uradnem obvestilu o sporočilu po četrtem odstavku in pred naslednjim možnim datumom za objavo omembe o podelitvi evropskega patenta, se omemba objavi šele, ko je plačana pristojbina za podaljšanje veljavnosti. O tem je treba obvestiti prijavitelja.

(10) V sporočilu po četrtem odstavku so navedene imenovane države pogodbenice, ki zahtevajo prevod po prvem odstavku 65. člena.

(11) V odločitvi o podelitvi evropskega patenta je navedeno, katero besedilo evropske patentne prijave je podlaga za podelitev evropskega patenta.

52. pravilo

Podelitev evropskega patenta več prijaviteljem

Če so kot prijavitelji za različne države pogodbenice v evropski patentni register vpisane različne osebe, podeli oddelek za preizkuse evropski patent za vsako državo pogodbenico tistemu prijavitelju ali tistim prijaviteljem, ki so registrirani za zadevno državo.

Chapter V
The European patent specification

Rule 53

Technical preparations for publication and form of the specification of the European patent

Rules 48 and 49, paragraphs 1 and 2, shall apply *mutatis mutandis* to the specification of the European patent. The specification shall also contain an indication of the time limit for opposing the European patent.

Rule 54

Certificate for a European patent

(1) As soon as the specification of the European patent has been published the European Patent Office shall issue to the proprietor of the patent a certificate for a European patent, to which the specification shall be annexed. The certificate shall certify that the patent has been granted, in respect of the invention described in the patent specification, to the person named in the certificate, for the Contracting States designated in the specification.

(2) The proprietor of the patent may request that duplicate copies of the European patent certificate be supplied to him upon payment of an administrative fee.

PART V
IMPLEMENTING REGULATIONS TO PART V OF THE
CONVENTION

Rule 55

Content of the notice of opposition

The notice of opposition shall contain:

(a) the name and address of the opponent and the State in which his residence or principal place of business is located, in accordance with the provisions of Rule 26, paragraph 2(c);

(b) the number of the European patent against which opposition is filed, and the name of the proprietor and title of the invention;

(c) a statement of the extent to which the European patent is opposed and of the grounds on which the opposition is based as well as an indication of the facts, evidence and arguments presented in support of these grounds;

(d) if the opponent has appointed a representative, his name and the address of his place of business, in accordance with the provisions of Rule 26, paragraph 2(c).

Rule 56

Rejection of the notice of opposition as inadmissible

(1) If the Opposition Division notes that the notice of opposition does not comply with the provisions of Article 99, paragraph 1, Rule 1, paragraph 1, and Rule 55, subparagraph (c), or does not provide sufficient identification of the patent against which opposition has been filed, it shall reject the notice of opposition as inadmissible unless these deficiencies have been remedied before expiry of the opposition period.

(2) If the Opposition Division notes that the notice of opposition does not comply with provisions other than those mentioned in paragraph 1, it shall communicate this to the opponent and shall invite him to remedy the deficiencies noted within such period as it may specify. If the notice of opposition is not corrected in good time the Opposition Division shall reject it as inadmissible.

V. poglavje
Evropski patentni spis

53. pravilo

Tehnične priprave za objavo in oblika evropskega patentnega spisa

48. pravilo ter prvi in drugi odstavek 49. pravila se smiselno uporabljajo za evropski patentni spis. V spisu je naveden tudi rok za ugovor zoper evropski patent.

54. pravilo

Evropska patentna listina

(1) Takoj po objavi evropskega patentnega spisa izda Evropski patentni urad imetniku patenta evropsko patentno listino, h kateri se priloži patentni spis. Listina potrjuje, da je bil patent za izum, opisan v patentnem spisu, podeljen osebi, ki je imenovana v listini, za države pogodbenice, imenovane v patentnem spisu.

(2) Imetnik patenta lahko zahteva, da se mu proti plačilu upravne pristojbine izda dvojniki evropske patentne listine.

V. DEL
PREDPISI O IZVAJANJU V. DELA KONVENCIJE

55. pravilo

Vsebina ugovora

Ugovor vsebuje:

(a) ime in naslov vložnika ugovora in ime države, v kateri ima ta stalno prebivališče ali sedež podjetja, v skladu z določbami pododstavka (c) drugega odstavka 26. pravila;

(b) številko evropskega patenta, zoper katerega je vložen ugovor, ter ime imetnika patenta in naziv izuma;

(c) izjavo o tem, v kolikšnem obsegu se ugovarja zoper evropski patent, razloge, na katerih temelji ugovor, ter dejstva, dokaze in argumente v podporo tem razlogom;

(d) če je vložnik ugovora imenoval zastopnika, njegovo ime in naslov njegovega sedeža dejavnosti v skladu z določbami pododstavka (c) drugega odstavka 26. pravila.

56. pravilo

Zavrženje ugovora kot nedopustnega

(1) Če oddelek za ugovore ugotovi, da ugovor ni v skladu z določbami prvega odstavka 99. člena, prvega odstavka 1. pravila in pododstavka (c) 55. pravila ali da ne označuje zadovoljivo patenta, zoper katerega je bil vložen ugovor, zavrže ugovor kot nedopusten, razen če te pomanjkljivosti niso bile odpravljene pred potekom roka za ugovor.

(2) Če oddelek za ugovore ugotovi, da ugovor ni v skladu z drugimi določbami, ki niso omenjene v prvem odstavku, to sporoči vložniku ugovora in ga pozove, da pomanjkljivosti odpravi v roku, ki ga določi. Če ugovor ni pravočasno popravljen, ga oddelek za ugovore zavrže kot nedopustnega.

(3) Any decision to reject a notice of opposition as inadmissible shall be communicated to the proprietor of the patent, together with a copy of the notice.

Rule 57

Preparation of the examination of the opposition

(1) The Opposition Division shall communicate the opposition to the proprietor of the patent and shall invite him to file his observations and to file amendments, where appropriate, to the description, claims and drawings within a period to be fixed by the Opposition Division.

(2) If several notices of opposition have been filed, the Opposition Division shall communicate them to the other opponents at the same time as the communication provided for under paragraph 1.

(3) The observations and any amendments filed by the proprietor of the patent shall be communicated to the other parties concerned who shall be invited by the Opposition Division, if it considers it expedient, to reply within a period to be fixed by the Opposition Division.

(4) In the case of a notice of intervention in opposition proceedings the Opposition Division may dispense with the application of paragraphs 1 to 3.

Rule 57a

Amendment of the European patent

Without prejudice to Rule 87, the description, claims and drawings may be amended, provided that the amendments are occasioned by grounds for opposition specified in Article 100, even if the respective ground has not been invoked by the opponent.

Rule 58

Examination of opposition

(1) All communications issued pursuant to Article 101, paragraph 2, and all replies thereto shall be communicated to all parties.

(2) In any communication to the proprietor of the European patent pursuant to Article 101, paragraph 2, he shall, where appropriate, be invited to file, where necessary, the description, claims and drawings in amended form.

(3) Where necessary, any communication to the proprietor of the European patent pursuant to Article 101, paragraph 2, shall contain a reasoned statement. Where appropriate, this statement shall cover all the grounds against the maintenance of the European patent.

(4) Before the Opposition Division decides on the maintenance of the European patent in the amended form, it shall inform the parties that it intends to maintain the patent as amended and shall invite them to state their observations within a period of two months if they disapprove of the text in which it is intended to maintain the patent.

(5) If disapproval of the text communicated by the Opposition Division is expressed, examination of the opposition may be continued; otherwise, the Opposition Division shall, on expiry of the period referred to in paragraph 4, request the proprietor of the patent to pay, within three months, the fee for the printing of a new specification of the European patent and to file a translation of any amended claims in the two official languages of the European Patent Office other than the language of the proceedings.

(3) Vsaka odločitev o zavrženju ugovora kot nedopustnega se sporoči imetniku patenta, pošlje pa se mu tudi kopija ugovora.

57. pravilo

Priprava preizkusa ugovora

(1) Oddelek za ugovore sporoči ugovor imetniku patenta in ga pozove, da v roku, ki ga oddelek določi, vloži svoje pripombe, in kjer je primerno, spremembe opisa izuma, patentnih zahtevkov in skic.

(2) Če je vloženih več ugovorov, jih oddelek za ugovore sporoči drugim vložnikom ugovorov hkrati s sporočilom iz prvega odstavka.

(3) Oddelek za ugovore sporoči pripombe in spremembe, ki jih je vložil imetnik patenta, vsem zainteresiranim strankam in jih pozove, če se mu to zdi smotno, da mu odgovorijo v roku, ki ga določi.

(4) Če pride v postopku ugovora do posredovanja, se lahko oddelek za ugovore odpove uporabi prvega do tretjega odstavka.

57.a pravilo

Sprememba evropskega patenta

Opis izuma, patentni zahtevki in skice se lahko spremenijo brez vpliva na 87. pravilo, če spremembe povzročijo razlogi za ugovor, navedeni v 100. členu, tudi če se vložnik ugovora ni skliceval na zadevni razlog.

58. pravilo

Preizkus ugovora

(1) Vsa sporočila, izdana po drugem odstavku 101. člena, in vsi odgovori nanje se pošljejo vsem strankam.

(2) V vseh sporočilih, ki se po drugem odstavku 101. člena pošljejo imetniku patenta, se imetnik pozove, kadar je primerno, da po potrebi vloži opis izuma, patentne zahtevke in skice v spremenjeni obliki.

(3) Kadar je treba, morajo sporočila imetniku patenta po drugem odstavku 101. člena vsebovati obrazložitev. Če je primerno, ta obrazložitev zajema vse razloge zoper vzdrževanje evropskega patenta.

(4) Preden oddelek za ugovore odloči, da se evropski patent vzdržuje v spremenjeni obliki, obvesti stranke, da namerava vzdrževati spremenjeni patent, in jih pozove, da v dveh mesecih dajo svoje pripombe, če se ne strinjajo z besedilom, v katerem namerava vzdrževati patent.

(5) Če se kaka stranka ne strinja z besedilom, ki ji ga je sporočil oddelek za ugovore, se preizkus ugovora lahko nadaljuje; sicer pa oddelek za ugovore po poteku roka iz četrtega odstavka zahteva od imetnika patenta, da v treh mesecih plača pristojbino za tiskanje novega evropskega patentnega spisa in da vloži prevod spremenjenih patentnih zahtevkov v dveh uradnih jezikih Evropskega patentnega urada, ki nista jezik postopka.

(6) If the acts requested under paragraph 5 are not performed in due time they may still be validly performed within two months of notification of a communication pointing out the failure to observe the time limit, provided that within this two-month period a surcharge equal to twice the fee for printing a new specification of the European patent is paid.

(7) The communication of the Opposition Division under paragraph 5 shall indicate the designated Contracting States which require a translation pursuant to Article 65, paragraph 1.

(8) The decision to maintain the European patent as amended shall state which text of the European patent forms the basis for the maintenance thereof.

Rule 59

Requests for documents

Documents referred to by a party to opposition proceedings shall be filed together with the notice of opposition or the written submissions in two copies. If such documents are neither enclosed nor filed in due time upon invitation by the European Patent Office, it may decide not to take into account any arguments based on them.

Rule 60

Continuation of the opposition proceedings by the European Patent Office of its own motion

(1) If the European patent has been surrendered or has lapsed for all the designated States, the opposition proceedings may be continued at the request of the opponent filed within two months as from a notification by the European Patent Office of the surrender or lapse.

(2) In the event of the death or legal incapacity of an opponent, the opposition proceedings may be continued by the European Patent Office of its own motion, even without the participation of the heirs or legal representatives. The same shall apply when the opposition is withdrawn.

Rule 61

Transfer of the European patent

Rule 20 shall apply *mutatis mutandis* to any transfer of the European patent made during the opposition period or during opposition proceedings.

Rule 61a

Documents in opposition proceedings

Part III, Chapter II, of the Implementing Regulations shall apply *mutatis mutandis* to documents filed in opposition proceedings.

Rule 62

Form of the new specification of the European patent in opposition proceedings

Rule 49, paragraphs 1 and 2, shall apply *mutatis mutandis* to the new specification of the European patent.

Rule 62a

New certificate for a European patent

Rule 54 shall apply *mutatis mutandis* to the new specification of the European patent.

(6) Če se dejanja, zahtevana po petem odstavku, ne opravijo pravočasno, se lahko veljavno opravijo še v dveh mesecih po uradnem obvestilu o sporočilu, ki opozarja na neupoštevanje roka, če se v tem dvomesečnem roku plača dodatna pristojbina v višini dvojne pristojbine za tiskanje novega evropskega patentnega spisa.

(7) V sporočilu oddelka za ugovore iz petega odstavka se navedejo imenovane države pogodbenice, ki zahtevajo prevod po prvem odstavku 65. člena.

(8) V odločitvi o vzdrževanju evropskega patenta v spremenjeni obliki je navedeno, katero besedilo evropskega patenta je podlaga za njegovo vzdrževanje.

59. pravilo

Zahteva za dokumente

Dokumenti, na katere se sklicuje stranka v postopku ugovora, se vložijo v dveh izvodih skupaj z ugovorom ali pisnimi navedbami. Če taki dokumenti po pozivu Evropskega patentnega urada niso priloženi ali vloženi pravočasno, lahko ta odloči, da ne bo upošteval dokazov, ki temeljijo na njih.

60. pravilo

Nadaljevanje postopka ugovora na pobudo Evropskega patentnega urada

(1) Če se je imetnik odpovedal evropskemu patentu za vse imenovane države ali je patent za te države prenehal veljati, se postopek ugovora lahko nadaljuje na zahtevo vložnika ugovora, ki jo mora vložiti v dveh mesecih po uradnem obvestilu Evropskega patentnega urada o odpovedi ali prenehanju veljavnosti.

(2) Če vložnik ugovora umre ali postane opravilno nesposoben, lahko Evropski patentni urad nadaljuje postopek ugovora na svojo pobudo tudi brez udeležbe dedičev ali zakonitih zastopnikov. Enako velja tudi, če se ugovor umakne.

61. pravilo

Prenos evropskega patenta

20. pravilo se smiselno uporablja za prenos evropskega patenta med rokom za ugovor ali med postopkom ugovora.

61.a pravilo

Dokumenti v postopku ugovora

II. poglavje III. dela pravilnika o izvajanju se smiselno uporablja za dokumente, vložene v postopku ugovora.

62. pravilo

Oblika novega evropskega patentnega spisa v postopku ugovora

Prvi in drugi odstavek 49. pravila se smiselno uporabljata za novi evropski patentni spis.

62.a pravilo

Nova evropska patentna listina

54. pravilo se smiselno uporablja za novi evropski patentni spis.

Rule 63
Costs

(1) Apportionment of costs shall be dealt with in the decision on the opposition. Such apportionment shall only take into consideration the expenses necessary to assure proper protection of the rights involved. The costs shall include the remuneration of the representatives of the parties.

(2) A bill of costs, with supporting evidence, shall be attached to the request for the fixing of costs. The request shall only be admissible if the decision in respect of which the fixing of costs is required has become final. Costs may be fixed once their credibility is established.

(3) The request for a decision by the Opposition Division on the awarding of costs by the registry, stating the reasons on which it is based, must be filed in writing to the European Patent Office within one month after the date of notification of the awarding of costs. It shall not be deemed to be filed until the fee for the awarding of costs has been paid.

(4) The Opposition Division shall take a decision on the request referred to in paragraph 3 without oral proceedings.

PART VI
IMPLEMENTING REGULATIONS TO PART VI OF THE
CONVENTION

Rule 64
Content of the notice of appeal

The notice of appeal shall contain:

(a) the name and address of the appellant in accordance with the provisions of Rule 26, paragraph 2(c);

(b) a statement identifying the decision which is impugned and the extent to which amendment or cancellation of the decision is requested.

Rule 65
Rejection of the appeal as inadmissible

(1) If the appeal does not comply with Articles 106 to 108 and with Rule 1, paragraph 1, and Rule 64, sub-paragraph (b), the Board of Appeal shall reject it as inadmissible, unless each deficiency has been remedied before the relevant time limit laid down in Article 108 has expired.

(2) If the Board of Appeal notes that the appeal does not comply with the provisions of Rule 64, sub-paragraph (a), it shall communicate this to the appellant and shall invite him to remedy the deficiencies noted within such period as it may specify. If the appeal is not corrected in good time, the Board of Appeal shall reject it as inadmissible.

Rule 66
Examination of appeals

(1) Unless otherwise provided, the provisions relating to proceedings before the department which has made the decision from which the appeal is brought shall be applicable to appeal proceedings *mutatis mutandis*.

(2) The decision shall be authenticated by the Chairman of the Board of Appeal and by the competent employee of the registry of the Board of Appeal, either by their signature or by any other appropriate means. The decision shall contain:

63. pravilo
Stroški

(1) Porazdelitev stroškov se določi v odločitvi o ugovoru. Upoštevajo se samo tisti stroški, ki so nujni za zagotovitev primerne varstva pravic. Med stroške se šteje tudi plačilo za zastopnike strank.

(2) K zahtevi za določitev stroškov se priloži obračun stroškov z ustreznimi dokazili. Zahteva je dopustna le, če je odločitev, v zvezi s katero se zahteva določitev stroškov, postala končna. Stroški se določijo, ko se ugotovi njihova verodostojnost.

(3) Zahteva za odločitev oddelka za ugovore glede stroškov, ki jih je določila njegova pisarna, mora biti obrazložena in vložena v pisni obliki pri Evropskem patentnem uradu v enem mesecu od datuma uradnega obvestila o določitvi stroškov. Šteje se, da je vložena šele, ko je plačana pristojbina za določitev stroškov.

(4) Oddelek za ugovore odloči o zahtevi iz tretjega odstavka brez ustnega postopka.

VI. DEL
PREDPISI O IZVAJANJU VI. DELA KONVENCIJE

64. pravilo
Vsebina pritožbe

Pritožba vsebuje:

(a) ime in naslov pritožnika v skladu s pododstavkom (c) drugega odstavka 26. pravila;

(b) izjavo, v kateri se opredelita izpodbijana odločitev in obseg, v katerem se zahteva sprememba ali razveljavitev odločitve.

65. pravilo
Zavrženje pritožbe kot nedopustne

(1) Če pritožba ni v skladu s 106. do 108. členom ter s prvim odstavkom 1. pravila in pododstavkom (b) 64. pravila, jo pritožbeni senat zavrže kot nedopustno, če se njene pomanjkljivosti ne odpravijo do poteka rokov, določenih v 108. členu.

(2) Če pritožbeni senat ugotovi, da pritožba ni v skladu s pododstavkom (a) 64. pravila, sporoči to pritožniku in ga pozove, da v roku, ki ga senat določi, odpravi ugotovljene pomanjkljivosti. Če pritožba ni popravljena pravočasno, jo pritožbeni senat zavrže kot nedopustno.

66. pravilo
Preizkus pritožb

(1) Če ni drugače določeno, se določbe o postopku pri oddelku, ki je izdal odločbo, zoper katero je bila vložena pritožba, smiselno uporabljajo v pritožbenem postopku.

(2) Pisno odločitev potrdira predsedujoči pritožbenega senata in pristojni uslužbenec pisarne pritožbenega senata s podpisom ali na kateri koli drug primeren način. Odločitev vsebuje:

- (a) a statement that it is delivered by the Board of Appeal;
- (b) the date when the decision was taken;
- (c) the names of the Chairman and of the other members of the Board of Appeal taking part;
- (d) the names of the parties and their representatives;
- (e) a statement of the issues to be decided;
- (f) a summary of the facts;
- (g) the reasons;
- (h) the order of the Board of Appeal, including, where appropriate, a decision on costs.

Rule 67**Reimbursement of appeal fees**

The reimbursement of appeal fees shall be ordered in the event of interlocutory revision or where the Board of Appeal deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation. In the event of interlocutory revision, reimbursement shall be ordered by the department whose decision has been impugned and, in other cases, by the Board of Appeal.

PART VII

IMPLEMENTING REGULATIONS TO PART VII OF THE CONVENTION

Chapter I

Decisions and communications of the European Patent Office**Rule 68****Form of decisions**

(1) Where oral proceedings are held before the European Patent Office, the decision may be given orally. Subsequently the decision in writing shall be notified to the parties.

(2) Decisions of the European Patent Office which are open to appeal shall be reasoned and shall be accompanied by a written communication of the possibility of appeal. The communication shall also draw the attention of the parties to the provisions laid down in Articles 106 to 108, the text of which shall be attached. The parties may not invoke the omission of the communication.

Rule 69**Noting of loss of rights**

(1) If the European Patent Office notes that the loss of any right results from the Convention, without any decision concerning the refusal of the European patent application or the grant, revocation or maintenance of the European patent, or the taking of evidence, it shall communicate this to the person concerned in accordance with the provisions of Article 119.

(2) If the person concerned considers that the finding of the European Patent Office is inaccurate, he may, within two months after notification of the communication referred to in paragraph 1, apply for a decision on the matter by the European Patent Office. Such decision shall be given only if the European Patent Office does not share the opinion of the person requesting it; otherwise the European Patent Office shall inform the person requesting the decision.

(a) izjavo, da jo je izdal pritožbeni senat;

(b) datum, na katerega je bila odločitev sprejeta;

(c) imena predsedujočega in drugih sodelujočih članov pritožbenega senata;

(d) imena strank in njihovih zastopnikov;

(e) izjavo o vprašanih, o katerih naj bi se odločalo;

(f) povzetek dejanskega stanja;

(g) razloge;

(h) izrek odločbe pritožbenega senata, in kadar je primerno, odločitev o stroških.

67. pravilo**Vračilo pristojbin za pritožbo**

Vračilo pristojbin za pritožbo se odredi v primeru začasne revizije ali kadar pritožbeni senat šteje pritožbo za dopustno, če je tako vračilo upravičeno zaradi bistvene kršitve postopka. V primeru začasne revizije odredi vračilo oddelek, katerega odločba se izpodbija, v drugih primerih pa pritožbeni senat.

VII. DEL

PREDPISI O IZVAJANJU VII. DELA KONVENCIJE

I. poglavje

Odločitve in sporočila Evropskega patentnega urada**68. pravilo****Oblika odločitev**

(1) Kadar je postopek pri Evropskem patentnem uradu usten, se odločitev lahko izreče ustno. Pozneje se odločitev pisno sporoči strankam.

(2) Odločitve Evropskega patentnega urada, zoper katere je možna pritožba, morajo biti obrazložene, priloženo pa jim mora biti pisno sporočilo o možnosti pritožbe. V sporočilu se stranke tudi opozorijo na določbe 106. do 108. člena, katerih besedilo mora biti priloženo. Stranke se ne morejo sklicevati na dejstvo, da sporočila ni bilo.

69. pravilo**Ugotovitev o izgubi pravic**

(1) Če Evropski patentni urad ugotovi, da izguba praviče izhaja iz te konvencije, ne da bi bila sprejeta odločitev o zavrnitvi evropske patentne prijave ali podelitvi, razveljavitvi ali vzdrževanju evropskega patenta ali o izvajanju dokazov, to sporoči prizadeti osebi v skladu z določbami 119. člena.

(2) Če prizadeta oseba meni, da ugotovitev Evropskega patentnega urada ni točna, lahko v dveh mesecih po uradnem obvestilu o sporočilu iz prvega odstavka zahteva od Evropskega patentnega urada odločitev o zadevi. Taka odločitev se izda samo, če Evropski patentni urad ni istega mnenja kot vložnik zahteve; v nasprotnem primeru Evropski patentni urad vložnika zahteve samo obvesti.

Rule 70**Signature, name, seal**

(1) Any decision, communication and notice from the European Patent Office is to be signed by and to state the name of the employee responsible.

(2) Where the documents mentioned in paragraph 1 are produced by the employee responsible using a computer, a seal may replace the signature. Where the documents are produced automatically by a computer the employee's name may also be dispensed with. The same applies to pre-printed notices and communications.

Chapter II

Oral proceedings and taking of evidence**Rule 71****Summons to oral proceedings**

(1) The parties shall be summoned to oral proceedings provided for in Article 116 and their attention shall be drawn to paragraph 2 of this Rule. At least two months' notice of the summons shall be given unless the parties agree to a shorter period.

(2) If a party who has been duly summoned to oral proceedings before the European Patent Office does not appear as summoned, the proceedings may continue without him.

Rule 71a**Preparation of oral proceedings**

(1) When issuing the summons, the European Patent Office shall draw attention to the points which in its opinion need to be discussed for the purposes of the decision to be taken. At the same time a final date for making written submissions in preparation for the oral proceedings shall be fixed. Rule 84 shall not apply. New facts and evidence presented after that date need not be considered, unless admitted on the grounds that the subject of the proceedings has changed.

(2) If the applicant or patent proprietor has been notified of the grounds prejudicing the grant or maintenance of the patent, he may be invited to submit, by the date specified in paragraph 1, second sentence, documents which meet the requirements of the Convention. Paragraph 1, third and fourth sentences, shall apply *mutatis mutandis*.

Rule 72**Taking of evidence by the European Patent Office**

(1) Where the European Patent Office considers it necessary to hear the oral evidence of parties, witnesses or experts or to carry out an inspection, it shall make a decision to this end, setting out the investigation which it intends to carry out, relevant facts to be proved and the date, time and place of the investigation. If oral evidence of witnesses and experts is requested by a party, the decision of the European Patent Office shall determine the period of time within which the party filing the request must make known to the European Patent Office the names and addresses of the witnesses and experts whom it wishes to be heard.

(2) At least two months' notice of a summons issued to a party, witness or expert to give evidence shall be given unless they agree to a shorter period. The summons shall contain:

70. pravilo**Podpis, ime, žig**

(1) Na odločitvah, sporočilih in obvestilih Evropskega patentnega urada morata biti podpis in ime odgovornega uslužbenca.

(2) Če odgovorni uslužbenec sestavlja dokumente, omenjene v prvem odstavku, z računalnikom, se lahko podpis nadomesti z žigom. Če te dokumente računalnik izdelava samodejno, se lahko izpusti tudi ime uslužbenca. To velja tudi za vnaprej tiskana obvestila in sporočila.

II. poglavje

Ustna obravnava in izvajanje dokazov**71. pravilo****Vabilo na ustno obravnavo**

(1) Stranke se povabijo na ustno obravnavo, predpisano v 116. členu, in se opozorijo na drugi odstavek tega pravila. Vabilo se pošlje najmanj dva meseca prej, razen če se stranke ne strinjajo s krajšim rokom.

(2) Če pravilno povabljen stranka ne pride na ustno obravnavo pri Evropskem patentnem uradu, se lahko ta nadaljuje brez nje.

71.a pravilo**Priprava ustne obravnave**

(1) V vabilu Evropski patentni urad opozori na vprašanja, ki bi jih bilo po njegovem mnenju treba obravnavati, da bi se lahko sprejela odločitev. Istočasno se določi končni datum za predložitev dokumentov za pripravo ustne obravnave. 84. pravilo se ne uporablja. Novih dejstev in dokazov, predloženih po tem datumu, ni treba upoštevati, razen če niso bili sprejeti zaradi spremembe dejanskega stanja v postopku.

(2) Če je bil prijavitelj ali imetnik patenta uradno obveščen o razlogih, ki nasprotujejo podelitvi ali vzdrževanju patenta, se lahko pozove, da do datuma, določenega v drugem stavku prvega odstavka, predloži dokumente, ki izpolnjujejo zahteve te konvencije. Tretji in četrti stavek prvega odstavka se uporabljata smiselno.

72. pravilo**Izvajanje dokazov pri Evropskem patentnem uradu**

(1) Če Evropski patentni urad meni, da je treba zaslišati stranke, pričati ali izvedence ali opraviti pregled, izda ustrezno odločitev, v kateri opiše preiskavo, ki jo namerava izvesti, bistvena dejstva, ki jih je treba dokazati, ter dan, uro in kraj preiskave. Če zaslišanje prič ali izvedencev zahteva stranka, se v odločitvi Evropskega patentnega urada določi rok, v katerem mora stranka, ki je vložila zahtevo, sporočiti Evropskemu patentnemu uradu imena in naslove prič in izvedencev, za katere želi, da se zaslišijo.

(2) Stranka, priča ali izvedenec se povabi na pričanje najmanj dva meseca prej, razen če se ti ne strinjajo s krajšim rokom. Vabilo vsebuje:

(a) an extract from the decision mentioned in paragraph 1, indicating in particular the date, time and place of the investigation ordered and stating the facts regarding which parties, witnesses and experts are to be heard;

(b) the names of the parties to the proceedings and particulars of the rights which the witnesses or experts may invoke under the provisions of Rule 74, paragraphs 2 to 4;

(c) an indication that the party, witness or expert may request to be heard by the competent court of his country of residence and a requirement that he inform the European Patent Office within a time limit to be fixed by the Office whether he is prepared to appear before it.

(3) Before a party, witness or expert may be heard, he shall be informed that the European Patent Office may request the competent court in the country of residence of the person concerned to re-examine his evidence on oath or in an equally binding form.

(4) The parties may attend an investigation and may put relevant questions to the testifying parties, witnesses and experts.

Rule 73 Commissioning of experts

(1) The European Patent Office shall decide in what form the report made by an expert whom it appoints shall be submitted.

(2) The terms of reference of the expert shall include:

(a) a precise description of his task;

(b) the time limit laid down for the submission of the expert report;

(c) the names of the parties to the proceedings;

(d) particulars of the rights which he may invoke under the provisions of Rule 74, paragraphs 2 to 4.

(3) A copy of any written report shall be submitted to the parties.

(4) The parties may object to an expert. The department of the European Patent Office concerned shall decide on the objection.

Rule 74 Costs of taking of evidence

(1) The taking of evidence by the European Patent Office may be made conditional upon deposit with it, by the party who requested the evidence to be taken, of a sum the amount of which shall be fixed by reference to an estimate of the costs.

(2) Witnesses and experts who are summoned by and appear before the European Patent Office shall be entitled to appropriate reimbursement of expenses for travel and subsistence. An advance for these expenses may be granted to them. The first sentence shall apply to witnesses and experts who appear before the European Patent Office without being summoned by it and are heard as witnesses or experts.

(3) Witnesses entitled to reimbursement under paragraph 2 shall also be entitled to appropriate compensation for loss of earnings, and experts to fees for their work. These payments shall be made to the witnesses and experts after they have fulfilled their duties or tasks.

(4) The Administrative Council shall lay down the details governing the implementation of the provisions of paragraphs 2 and 3. Payment of amounts due pursuant to these paragraphs shall be made by the European Patent Office.

(a) izpisek iz odločitve, omenjene v prvem odstavku, v katerem so navedeni zlasti datum, ura in kraj odrejene preiskave ter dejstva, v zvezi s katerimi bodo stranke, priče in izvedenci zaslišani;

(b) imena strank v postopku in podatki o pravicah, na katere se priče ali izvedenci lahko sklicujejo po določbah drugega do četrtega odstavka 74. pravila;

(c) navedbo, da lahko stranka, priča ali izvedenec zahteva zaslišanje pri pristojnem sodišču v državi bivanja, in zahtevo, da sporoči Evropskemu patentnemu uradu v roku, ki ga ta določi, ali je pripravljen priti predenj.

(3) Pred zaslišanjem je treba stranko, pričo ali izvedenca obvestiti, da Evropski patentni urad lahko zaprosi pristojno sodišče v državi bivanja zadevne osebe, da se ta ponovno zasliši pod prisego ali na enako zavezujoč način.

(4) Stranke so lahko navzoče pri preiskavi in lahko zastavljajo ustrezna vprašanja strankam, pričam in izvedencem, ki pričajo.

73. pravilo Zaupanje nalog izvedencem

(1) Evropski patentni urad odloči, v kakšni obliki mora izvedenec, ki ga je imenoval, predložiti poročilo.

(2) Naročilo izvedencu mora vsebovati:

(a) točen opis njegove naloge;

(b) rok za predložitev izvedenčevega poročila;

(c) imena strank v postopku;

(d) podatke o pravicah, na katere se lahko sklicuje po določbah drugega do četrtega odstavka 74. pravila.

(3) Stranke dobijo izvod vsakega pisnega poročila.

(4) Stranke lahko ugovarjajo zoper izvedenca. O ugovoru odloča zadevni oddelek Evropskega patentnega urada.

74. pravilo Stroški izvajanja dokazov

(1) Evropski patentni urad lahko izvajanje dokazov pogojuje s tem, da stranka, ki to zahteva, pri njem deponira vsoto, katere višina se določi z oceno stroškov.

(2) Priče in izvedenci, ki jih povabi Evropski patentni urad in pridejo predenj, imajo pravico do ustreznega povračila stroškov za potovanje in bivanje. Za te stroške se jim lahko dodeli akontacija. Prvi stavek se uporablja za priče in izvedence, ki pridejo pred Evropski patentni urad, ne da bi bili povabljeni, in so zaslišani kot priče ali izvedenci.

(3) Priče, ki jim pripada pravica do povračila po drugem odstavku, imajo pravico do ustreznega nadomestila za izgubljeni zaslužek, izvedenci pa za pristojbine za svojo delo. Ta plačila se pričam in izvedencem izplačajo šele takrat, ko opravijo svoje dolžnosti ali naloge.

(4) Upravni svet določi podrobnosti o izvajanju določb drugega in tretjega odstavka. Plačila zneskov, dolgovanj na podlagi teh odstavkov, opravi Evropski patentni urad.

Rule 75**Conservation of evidence**

(1) On request, the European Patent Office may, without delay, hear oral evidence or conduct inspections, with a view to conserving evidence of facts liable to affect a decision which it may be called upon to take with regard to an existing European patent application or a European patent, where there is reason to fear that it might subsequently become more difficult or even impossible to take evidence. The date on which the measures are to be taken shall be communicated to the applicant for or proprietor of the patent in sufficient time to allow him to attend. He may ask relevant questions.

(2) The request shall contain:

(a) the name and address of the person filing the request and the State in which his residence or principal place of business is located, in accordance with the provisions of Rule 26, paragraph 2(c);

(b) sufficient identification of the European patent application or European patent in question;

(c) the designation of the facts in respect of which evidence is to be taken;

(d) particulars of the way in which evidence is to be taken;

(e) a statement establishing a prima facie case for fearing that it might subsequently become more difficult or impossible to take evidence.

(3) The request shall not be deemed to have been filed until the fee for conservation of evidence has been paid.

(4) The decision on the request and any resulting taking of evidence shall be incumbent upon the department of the European Patent Office required to take the decision liable to be affected by the facts to be established. The provisions of the Convention with regard to the taking of evidence in proceedings before the European Patent Office shall be applicable.

Rule 76**Minutes of oral proceedings and of taking of evidence**

(1) Minutes of oral proceedings and of the taking of evidence shall be drawn up containing the essentials of the oral proceedings or of the taking of evidence, the relevant statements made by the parties, the testimony of the parties, witnesses or experts and the result of any inspection.

(2) The minutes of the testimony of a witness, expert or party shall be read out or submitted to him so that he may examine them. It shall be noted in the minutes that this formality has been carried out and that the person who gave the testimony approved the minutes. If his approval is not given, his objections shall be noted.

(3) The minutes shall be authenticated by the employee who drew them up and by the employee who conducted the oral proceedings or taking of evidence, either by their signature or by any other appropriate means.

(4) The parties shall be provided with a copy of the minutes.

Chapter III
Notifications

Rule 77**General provisions on notifications**

(1) In proceedings before the European Patent Office, any notification to be made shall take the form either of the

75. pravilo**Zavarovanje dokazov**

(1) Evropski patentni urad lahko na zahtevo takoj začne zaslisanje ali preiskavo, da bi zavaroval dokaz o dejstvih, ki lahko vplivajo na odločitev, ki bi jo utegnili zahtevati od njega v zvezi z obstoječo evropsko patentno prijavo ali evropskim patentom, če obstaja bojazen, da bi bilo izvajanje dokazov pozneje težje ali celo nemogoče. Datum izvedbe dokaza mora biti prijavitelju ali imetniku patenta sporočen pravočasno, da je lahko navzoč. Postavlja lahko vprašanja, ki so povezana s primerom.

(2) Zahteva mora vsebovati:

(a) ime, priimek in naslov vložnika zahteve ter državo, v kateri biva ali ima sedež podjetja, v skladu z določbami pododstavka (c) drugega odstavka 26. pravila;

(b) zadostno identifikacijo evropske patentne prijave ali evropskega patenta;

(c) navedbo dejstev, v zvezi s katerimi je treba izvesti dokaze;

(d) podatke o načinu izvajanja dokazov;

(e) navedbo razloga, zaradi katerega je upravičena bojazen, da bo izvajanje dokazov pozneje morda težje ali nemogoče.

(3) Zahteva se šteje za vloženo šele, ko je plačana pristojbina za zavarovanje dokazov.

(4) Za odločitev o zahtevi in za vsako izvedbo dokaza, ki iz nje izhaja, je pristojen oddelek Evropskega patentnega urada, ki naj bi sprejel odločitev, na katero bi utegnili vplivati dejstva, ki jih je treba dokazati. Za izvajanje dokazov se v postopkih pri Evropskem patentnem uradu uporabljajo določbe te konvencije.

76. pravilo**Zapisnik o ustni obravnavi in izvajanje dokazov**

(1) O ustni obravnavi in izvajanju dokazov se sestavi zapisnik, ki vsebuje bistvene podatke o ustni obravnavi ali izvajanju dokazov, za zadevo pomembne izjave strank, pričanje strank, prič ali izvedencev in izid vsake preiskave.

(2) Zapisnik o pričanju priče, izvedenca ali stranke mora biti prebran ali dan na vpogled tej osebi. V zapisniku se navede, da je bila ta formalnost opravljena in da ga je oseba, ki je pričala, odobrila. Če ga ne odobri, se navedejo njeni pomisleki.

(3) Zapisnik potrđita uslužbenec, ki ga je sestavil, in uslužbenec, ki je vodil ustno obravnavo ali izvajanje dokazov, bodisi s podpisom ali na kateri koli drug ustrezen način.

(4) Stranke dobijo kopijo zapisnika.

III. poglavje
Uradna obvestila

77. pravilo**Splošne določbe o uradnih obvestilih**

(1) V postopkih pri Evropskem patentnem uradu mora biti vsako uradno obvestilo v obliki bodisi izvirnega doku-

original document, a copy thereof certified by, or bearing the seal of, the European Patent Office or a computer print-out bearing such seal. Copies of documents emanating from the parties themselves shall not require such certification.

(2) Notification shall be made:

(a) by post in accordance with Rule 78;

(b) by delivery on the premises of the European Patent Office in accordance with Rule 79;

(c) by public notice in accordance with Rule 80, or

(d) by such technical means of communication as determined by the President of the European Patent Office and under the conditions laid down by him governing their use.

(3) Notification through the central industrial property office of a Contracting State shall be made in accordance with the provisions applicable to the said office in national proceedings.

Rule 78

Notification by post

(1) Decisions incurring a time limit for appeal, summons and other documents as decided on by the President of the European Patent Office shall be notified by registered letter with advice of delivery. All other notifications by post shall be by registered letter.

(2) Where notification is effected by registered letter, whether or not with advice of delivery, this shall be deemed to be delivered to the addressee on the tenth day following its posting, unless the letter has failed to reach the addressee or has reached him at a later date; in the event of any dispute, it shall be incumbent on the European Patent Office to establish that the letter has reached its destination or to establish the date on which the letter was delivered to the addressee, as the case may be.

(3) Notification by registered letter, whether or not with advice of delivery, shall be deemed to have been effected even if acceptance of the letter has been refused.

(4) To the extent that notification by post is not covered by paragraphs 1 to 3, the law of the State on the territory of which the notification is made shall apply.

Rule 79

Notification by delivery by hand

Notification may be effected on the premises of the European Patent Office by delivery by hand of the document to the addressee, who shall on delivery acknowledge its receipt. Notification shall be deemed to have taken place even if the addressee refuses to accept the document or to acknowledge receipt thereof.

Rule 80

Public notification

(1) If the address of the addressee cannot be established, or if notification in accordance with Rule 78, paragraph 1, has proved to be impossible even after a second attempt by the European Patent Office, notification shall be effected by public notice.

(2) The President of the European Patent Office shall determine how the public notice is to be given and the beginning of the period of one month on the expiry of which the document shall be deemed to have been notified.

menta ali njegove kopije, ki jo je overil Evropski patentni urad ali ima njegov žig, bodisi računalniškega izpisa, ki ima tak žig. Kopije dokumentov, ki jih predložijo stranke same, ne potrebujejo take overitve.

(2) Uradna obvestila se dajo:

(a) po pošti v skladu z 78. pravilom;

(b) z dostavo v prostore Evropskega patentnega urada v skladu z 79. pravilom;

(c) z javno objavo v skladu z 80. pravilom ali

(d) s takimi tehničnimi komunikacijskimi sredstvi, kot jih določi predsednik Evropskega patentnega urada, in pod pogoji, ki jih ta predpiše in ki urejajo njihovo uporabo.

(3) Uradno obveščanje opravlja osrednji urad za industrijsko lastnino države pogodbenice v skladu z določbami, ki jih uporablja v državnih postopkih.

78. pravilo

Uradno obveščanje po pošti

(1) O odločitvah, na podlagi katerih začne teči rok za pritožbo, vabilih in drugih dokumentih, ki jih določi predsednik Evropskega patentnega urada, se uradno obvešča s priporočenim pismom s povratnico. Vsaka druga uradna obvestila, ki se pošiljajo po pošti, se dostavijo s priporočenim pismom.

(2) Pri uradnem obveščanju s priporočenim pismom s povratnico ali brez nje se pismo šteje za vročeno naslovniku desetega dne po odpremi, razen če do naslovnika ni dospelo ali je dospelo do njega pozneje; če pride do spora, mora Evropski patentni urad dokazati, da je pismo dospelo na cilj, ali ugotoviti dan, ko je bilo vročeno naslovniku, odvisno od primera.

(3) Uradno obveščanje s priporočenim pismom s povratnico ali brez nje se šteje za opravljeno tudi, če je bil prevzem pisma zavrnjen.

(4) Če uradno obveščanje po pošti ni v celoti urejeno z določbami od prvega do tretjega odstavka, se uporablja zakonodaja države, na ozemlju katere se opravlja uradno obveščanje.

79. pravilo

Uradno obveščanje z neposredno izročitvijo

Uradno obveščanje se lahko opravi v prostorih Evropskega patentnega urada z neposredno izročitvijo dokumenta naslovniku, ki mora ob izročitvi potrditi prejem. Uradno obveščanje se šteje za opravljeno tudi, če naslovnik noče sprejeti dokumenta ali potrditi njegovega prejema.

80. pravilo

Javno uradno obveščanje

(1) Če naslova naslovnika ni mogoče ugotoviti ali če je bilo uradno obveščanje v skladu s prvim odstavkom 78. pravila nemogoče opraviti tudi po drugem poskusu Evropskega patentnega urada, se uradno obveščanje opravi z javnim obvestilom.

(2) Predsednik Evropskega patentnega urada določi način javnega obveščanja in začetek enomesečnega roka, po poteku katerega se šteje, da je bilo dostavljeno uradno obvestilo o dokumentu.

Rule 81**Notification to representatives**

(1) If a representative has been appointed, notifications shall be addressed to him.

(2) If several such representatives have been appointed for a single interested party, notification to any one of them shall be sufficient.

(3) If several interested parties have a common representative, notification of a single document to the common representative shall be sufficient.

Rule 82**Irregularities in the notification**

Where a document has reached the addressee, if the European Patent Office is unable to prove that it has been duly notified, or if provisions relating to its notification have not been observed, the document shall be deemed to have been notified on the date established by the European Patent Office as the date of receipt.

**Chapter IV
Time limits****Rule 83****Calculation of time limits**

(1) Periods shall be laid down in terms of full years, months, weeks or days.

(2) Computation shall start on the day following the day on which the relevant event occurred, the event being either a procedural step or the expiry of another period. Where the procedural step is a notification, the event considered shall be the receipt of the document notified, unless otherwise provided.

(3) When a period is expressed as one year or a certain number of years, it shall expire in the relevant subsequent year in the month having the same name and on the day having the same number as the month and the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

(4) When a period is expressed as one month or a certain number of months, it shall expire in the relevant subsequent month on the day which has the same number as the day on which the said event occurred, provided that if the relevant subsequent month has no day with the same number the period shall expire on the last day of that month.

(5) When a period is expressed as one week or a certain number of weeks, it shall expire in the relevant subsequent week on the day having the same name as the day on which the said event occurred.

Rule 84**Duration of time limits**

Where the Convention or these Implementing Regulations specify a period to be determined by the European Patent Office, such period shall be not less than two months nor more than four months; in certain special circumstances it may be up to six months. In certain special cases, the period may be extended upon request, presented before the expiry of such period.

81. pravilo**Uradno obveščanje zastopnikov**

(1) Če je bil imenovan zastopnik, se uradna obvestila naslavljajo nanj.

(2) Če je bilo imenovanih več zastopnikov za eno stranko, zadostuje dostava uradnega obvestila kateremu koli izmed njih.

(3) Če ima več strank skupnega zastopnika, zadostuje dostava enega dokumenta skupnemu zastopniku.

82. pravilo**Nepravilnosti pri uradnem obveščanju**

Če je dokument prispel do naslovnika, vendar Evropski patentni urad ne more dokazati pravilne dostave uradnega obvestila, ali če niso bile upoštevane določbe v zvezi z njegovim obveščanjem, se šteje, da je bilo uradno obvestilo o dokumentu dostavljeno na datum, ki ga Evropski patentni urad določi kot datum prejema.

**IV. poglavje
Roki****83. pravilo****Računanje rokov**

(1) Roki se določijo v polnih letih, mesecih, tednih ali dneh.

(2) Računanje rokov se začne z dnem, ki sledi datumu, ko je nastal dogodek, ki je dejanje postopka ali potek drugega roka. Če je to dejanje postopka uradno obveščanje, je obravnavani dogodek prejem dostavljenega dokumenta, če ni drugače določeno.

(3) Če je rok eno leto ali več let, poteče v ustreznem naslednjem letu v mesecu z istim imenom in na dan z isto številko, kot sta ju imela mesec in dan, ko se je omenjeni dogodek zgodil; če v ustreznem mesecu naslednjega leta ni dneva z isto številko, poteče rok zadnjega dne tega meseca.

(4) Če je rok en mesec ali več mesecev, poteče v ustreznem naslednjem mesecu na dan z isto številko, kot jo je imel dan, ko se je omenjeni dogodek zgodil; če v ustreznem naslednjem mesecu ni dneva z isto številko, poteče rok zadnjega dne tega meseca.

(5) Če je rok en teden ali več tednov, poteče v ustreznem naslednjem tednu na dan z istim imenom, kot ga je imel dan, ko se je omenjeni dogodek zgodil.

84. pravilo**Trajanje rokov**

Če je v tej konvenciji ali v tem pravilniku za izvajanje predviden rok, ki naj bi ga določil Evropski patentni urad, ta rok ne sme biti krajši od dveh in ne daljši od štirih mesecev; v nekaterih posebnih okoliščinah lahko traja do šest mesecev. V nekaterih posebnih primerih se lahko rok podaljša na zahtevo, predloženo pred potekom tega roka.

Rule 84a**Late receipt of documents**

(1) A document received late at the European Patent Office shall be deemed to have been received in due time if it was posted, or delivered to a recognised delivery service, in due time before the expiry of the time limit in accordance with the conditions laid down by the President of the European Patent Office, unless the document was received later than three months after expiry of the time limit.

(2) Paragraph 1 shall apply *mutatis mutandis* to the time limits provided for in the Convention where transactions are carried out with the competent authority in accordance with Article 75, paragraph 1(b) or paragraph 2(b).

Rule 85**Extension of time limits**

(1) If a time limit expires on a day on which one of the filing offices of the European Patent Office in the sense of Article 75, paragraph 1(a) is not open for receipt of documents or on which, for reasons other than those referred to in paragraph 2, ordinary mail is not delivered there, the time limit shall extend until the first day thereafter on which all the filing offices are open for receipt of documents and on which ordinary mail is delivered.

(2) If a time limit expires on a day on which there is a general interruption or subsequent dislocation in the delivery of mail in a Contracting State or between a Contracting State and the European Patent Office, the time limit shall extend to the first day following the end of the period of interruption or dislocation for parties resident in the State concerned or who have appointed representatives with a place of business in that State. The first sentence shall apply *mutatis mutandis* to the period referred to in Article 77, paragraph 5. In the case where the State concerned is the State in which the European Patent Office is located, this provision shall apply to all parties. The duration of the above-mentioned period shall be as stated by the President of the European Patent Office.

(3) Paragraphs 1 and 2 shall apply *mutatis mutandis* to the time limits provided for in the Convention in the case of transactions carried out with the competent authority in accordance with Article 75, paragraph 1(b) or paragraph 2(b).

(4) If an exceptional occurrence such as a natural disaster or strike interrupts or dislocates the proper functioning of the European Patent Office so that any communication from the Office to parties concerning the expiry of a time limit is delayed, acts to be completed within such a time limit may still be validly completed within one month after the notification of the delayed communication. The date of commencement and the end of any such interruption or dislocation shall be as stated by the President of the European Patent Office.

(5) Without prejudice to paragraphs 1 to 4, evidence may be offered that on any of the ten days preceding the day of expiration of a time limit the mail service was interrupted or subsequently dislocated on account of war, revolution, civil disorder, strike, natural calamity, or other like reason, in the locality where the party or his representative resides or has his place of business or is staying. If such circumstances are proven to the satisfaction of the European Patent Office, a document received late shall be deemed to have been received in due time provided that the mailing has been effected within five days after the mail service was resumed.

84.a pravilo**Zakasnel prejem dokumentov**

(1) Dokument, ki ga je Evropski patentni urad prejel z zamudo, se šteje za pravočasno prejetega, če je bil pravočasno poslan po pošti ali dostavljen priznani dostavni službi pred potekom roka in skladno s pogoji, ki jih je določil predsednik Evropskega patentnega urada, razen če je bil prejet več kot tri mesece po poteku roka.

(2) Prvi odstavek se smiselno uporablja za roke, predpisane v tej konvenciji, kadar so dejanja opravljena pri pristojnem organu skladno s pododstavkom (b) prvega odstavka ali pododstavkom (b) drugega odstavka 75. člena.

85. pravilo**Podaljševanje rokov**

(1) Če rok poteče na dan, ko katera od sprejemnih služb Evropskega patentnega urada po pododstavku (a) prvega odstavka 75. člena ni odprta za sprejem dokumentov ali ko navadne poštno pošiljke iz katerih koli razlogov, razen tistih iz drugega odstavka, niso tja dostavljene, se rok podaljša do prvega naslednjega dne, ko so odprte vse sprejemne službe za sprejem dokumentov in ko se dostavljajo navadne poštno pošiljke.

(2) Če rok poteče na dan, ko je poštna dostava v kaki državi pogodbenici ali med kako državo pogodbenico in Evropskim patentnim uradom popolnoma prekinjena ali je po taki prekinitvi otežena, se rok za stranke, ki prebivajo v tej državi ali so imenovalе zastopnike, ki imajo v njej sedež dejavnosti, podaljša do prvega dne po končani prekinitvi ali motnji. Prvi stavek se smiselno uporablja za rok iz petega odstavka 77. člena. Če gre za državo, v kateri ima Evropski patentni urad svoj sedež, velja ta določba za vse stranke. Trajanje prekinitve ali motnje določi predsednik Evropskega patentnega urada.

(3) Prvi in drugi odstavek se smiselno uporabljata za roke, ki so predvideni v konvenciji, kadar gre za dejanja, opravljena pri pristojnem organu v skladu s pododstavkom (b) prvega odstavka ali pododstavkom (b) drugega odstavka 75. člena.

(4) Če je redno delovanje Evropskega patentnega urada prekinjeno ali moteno zaradi izrednega dogodka, kot je naravna nesreča ali stavka, in zato zamujajo sporočila urada strankam o poteku roka, se lahko dejanja, ki jih je treba opraviti v tem roku, še vedno veljavno opravijo v enem mesecu po uradnem obvestilu o zamujenem sporočilu. Datum začetka in konca take prekinitve ali motnje določi predsednik Evropskega patentnega urada.

(5) Brez vpliva na prvi do četrti odstavek se lahko predloži dokazilo, da je bila v kraju, kjer stranka ali njen zastopnik stalno ali začasno prebiva ali ima sedež dejavnosti, poštna dostava na katerega koli od desetih dni pred potekom roka prekinjena ali po prekinitvi otežena zaradi vojne, revolucije, državljskih nemirov, stavke, naravne nesreče ali drugega podobnega razloga. Če dokazilo prepriča Evropski patentni urad o obstoju takih okoliščin, se dokument, prejet z zamudo, šteje za pravočasno prejetega, pod pogojem da je bilo pošiljanje opravljeno v petih dneh po ponovni vzpostavitvi poštno dostave.

Rule 85a**Period of grace for payment of fees**

(1) If the filing fee, the search fee or a designation fee has not been paid within the time limits provided for in Article 78, paragraph 2, Article 79, paragraph 2, Rule 15, paragraph 2 or Rule 25, paragraph 2, it may still be validly paid within a period of grace of one month from notification of a communication pointing out the failure to observe the time limit, provided that within this period a surcharge is paid.

(2) Designation fees in respect of which the applicant has dispensed with notification under paragraph 1 may still be validly paid within a period of grace of two months of expiry of the normal time limits referred to in paragraph 1, provided that within this period a surcharge is paid.

Rule 85b**Period of grace for the filing of the request for examination**

If the request for examination has not been filed within the time limit provided for in Article 94, paragraph 2, it may still be validly filed within a period of grace of one month from notification of a communication pointing out the failure to observe the time limit, provided that within this period a surcharge is paid.

Chapter V**Amendments and corrections****Rule 86****Amendment of the European patent application**

(1) Before receiving the European search report the applicant may not amend the description, claims or drawings of a European patent application except where otherwise provided.

(2) After receiving the European search report and before receipt of the first communication from the Examining Division, the applicant may, of his own volition, amend the description, claims and drawings.

(3) After receipt of the first communication from the Examining Division the applicant may, of his own volition, amend once the description, claims and drawings provided that the amendment is filed at the same time as the reply to the communication. No further amendment may be made without the consent of the Examining Division.

(4) Amended claims may not relate to unsearched subject-matter which does not combine with the originally claimed invention or group of inventions to form a single general inventive concept.

Rule 87**Different claims, description and drawings for different States**

If the European Patent Office notes that, in respect of one or some of the designated Contracting States, the content of an earlier European patent application forms part of the state of the art pursuant to Article 54, paragraphs 3 and 4, or if it is informed of the existence of a prior right under Article 139, paragraph 2, the European patent application or European patent may contain for such State or States claims and, if the European Patent Office considers it necessary, a description and drawings which are different from those for the other designated Contracting States.

85.a pravilo**Dodatni rok za plačilo pristojbine**

(1) Če prijavná pristojbina, pristojbina za poizvedbo ali pristojbina za imenovanje ni plačana v rokih, predvidenih v drugem odstavku 78. člena, drugem odstavku 79. člena, drugem odstavku 15. pravila ali drugem odstavku 25. pravila, se lahko še vedno veljavno plača v dodatnem enomesečnem roku po uradnem obvestilu o sporočilu o neupoštevanju roka, če se v tem roku plača tudi dodatna pristojbina.

(2) Pristojbine za imenovanje, v zvezi s katerimi se je prijavitelj odpovedal uradnemu obvestilu po prvem odstavku, se lahko še vedno veljavno plačajo v dodatnem dvomesečnem roku po poteku običajnih rokov iz prvega odstavka, če se v tem roku plača tudi dodatna pristojbina.

85.b pravilo**Dodatni rok za vložitev zahteve za preizkus**

Če zahteva za preizkus ni bila vložena v roku, predvidenem v drugem odstavku 94. člena, se lahko še vedno veljavno vloží v dodatnem enomesečnem roku po uradnem obvestilu o sporočilu o neupoštevanju roka, če se v tem roku plača tudi dodatna pristojbina.

V. poglavje**Spremembe in popravki****86. pravilo****Sprememba evropske patentne prijave**

(1) Pred prejemom evropskega poročila o poizvedbi prijavitelj ne sme spremeniti opisa izuma, patentnih zahtevkov ali skic evropske patentne prijave, razen če ni drugače določeno.

(2) Po prejemu evropskega poročila o poizvedbi in pred prejemom prvega sporočila oddelka za preizkuse lahko prijavitelj sam od sebe spremeni opis izuma, patentne zahtevke in skice.

(3) Po prejemu prvega sporočila oddelka za preizkuse lahko prijavitelj sam od sebe enkrat spremeni opis izuma, patentne zahtevke in skice, če se sprememba vloží hkrati z odgovorom na sporočilo. Nadaljnje spremembe niso dovoljene brez soglasja oddelka za preizkuse.

(4) Spremenjeni patentni zahtevki se ne smejo nanašati na elemente, ki niso predmet poizvedbe in niso povezani s prvotno zahtevanim izumom ali skupino izumov tako, da tvorijo eno samo splošno izumiteljsko zamisel.

87. pravilo**Različni patentni zahtevki, opisi izumov in skice za različne države**

Če Evropski patentni urad ugotovi, da je za eno ali več imenovanih držav pogodbenic vsebina prejšnje evropske patentne prijave del stanja tehnike na podlagi tretjega in četrtega odstavka 54. člena, ali če izve za obstoj prednostne pravice po drugem odstavku 139. člena, sme evropska patentna prijava ali evropski patent za to državo ali za te države vsebovati patentne zahtevke, če pa meni, da je to treba, tudi opis izuma in skice, ki so različni od tistih za druge imenovane države pogodbenice.

Rule 88**Correction of errors in documents filed with the European Patent Office**

Linguistic errors, errors of transcription and mistakes in any document filed with the European Patent Office may be corrected on request. However, if the request for such correction concerns a description, claims or drawings, the correction must be obvious in the sense that it is immediately evident that nothing else would have been intended than what is offered as the correction.

Rule 89**Correction of errors in decisions**

In decisions of the European Patent Office, only linguistic errors, errors of transcription and obvious mistakes may be corrected.

Chapter VI

Interruption of proceedings**Rule 90****Interruption of proceedings**

(1) Proceedings before the European Patent Office shall be interrupted:

(a) in the event of the death or legal incapacity of the applicant for or proprietor of a European patent or of the person authorised by national law to act on his behalf. To the extent that the above events do not affect the authorisation of a representative appointed under Article 134, proceedings shall be interrupted only on application by such representative;

(b) in the event of the applicant for or proprietor of a European patent, as a result of some action taken against his property, being prevented by legal reasons from continuing the proceedings before the European Patent Office;

(c) in the event of the death or legal incapacity of the representative of an applicant for or proprietor of a European patent or of his being prevented for legal reasons resulting from action taken against his property from continuing the proceedings before the European Patent Office.

(2) When, in the cases referred to in paragraph 1 (a) and (b), the European Patent Office has been informed of the identity of the person authorised to continue the proceedings before the European Patent Office, the European Patent Office shall communicate to such person and to any interested third party that the proceedings shall be resumed as from a date to be fixed by the European Patent Office.

(3) In the case referred to in paragraph 1(c), the proceedings shall be resumed when the European Patent Office has been informed of the appointment of a new representative of the applicant or when the European Patent Office has notified to the other parties the communication of the appointment of a new representative of the proprietor of the patent. If, three months after the beginning of the interruption of the proceedings, the European Patent Office has not been informed of the appointment of a new representative, it shall communicate to the applicant for or proprietor of the patent:

(a) where Article 133, paragraph 2, is applicable, that the European patent application will be deemed to be withdrawn or the European patent will be revoked if the information is not submitted within two months after this communication is notified, or

88. pravilo**Popravljanje napak v dokumentih, vloženi pri Evropskem patentnem uradu**

Jezikovne napake, napake pri pisanju in pomote v dokumentih, vloženi pri Evropskem patentnem uradu, se lahko popravijo na podlagi zahteve. Če se zahteva za tak popravek nanaša na opis izuma, patentne zahtevke ali skice, mora biti popravek tako očiten, da se lahko takoj ugotovi, da ni bil namen popraviti nič drugega kot to, kar je v predlogu popravka.

89. pravilo**Popravljanje napak v odločitvah**

V odločitvah Evropskega patentnega urada se smejo popravljati samo jezikovne napake, napake pri pisanju in očitne pomote.

VI. poglavje

Prekinitev postopka**90. pravilo****Prekinitev postopka**

(1) Postopek pri Evropskem patentnem uradu se prekineta:

(a) če prijavitelj ali imetnik evropskega patenta ali oseba, ki je po državnem pravu pooblaščen, da ga zastopa, umre ali postane opravilno nesposobna. Če omenjeni dogodki ne vplivajo na pravico zastopnika, imenovanega po 134. členu, do zastopanja, se postopek prekine samo na zahtevo takega zastopnika;

(b) če prijavitelj ali imetnik evropskega patenta zaradi nekega postopka zoper njegovo premoženje iz pravnih razlogov ne more nadaljevati postopka pri Evropskem patentnem uradu;

(c) če zastopnik prijavitelja ali imetnika evropskega patenta umre ali postane opravilno nesposoben ali če zaradi postopka zoper njegovo premoženje iz pravnih razlogov ne more nadaljevati postopka pri Evropskem patentnem uradu.

(2) Če je bil v primerih iz pododstavkov (a) in (b) prvega odstavka Evropski patentni urad obveščen o identiteti osebe, ki je pooblaščen, da nadaljuje postopek pri Evropskem patentnem uradu, sporoči tej osebi in vsaki zainteresirani tretji osebi, da se bo postopek nadaljeval z datumom, ki ga bo določil.

(3) V primeru iz pododstavka (c) prvega odstavka se postopek nadaljuje, ko Evropski patentni urad dobi obvestilo o imenovanju novega zastopnika prijavitelja ali ko drugim strankam pošlje uradno obvestilo o imenovanju novega zastopnika imetnika patenta. Če Evropski patentni urad v treh mesecih po prekinitvi postopka ne dobi obvestila o imenovanju novega zastopnika, sporoči prijavitelju ali imetniku patenta:

(a) če se uporablja drugi odstavek 133. člena, da se bo štela evropska patentna prijava za umaknjeno ali da bo evropski patent razveljavljen, če obvestilo ne bo predloženo v dveh mesecih po uradnem obvestilu o tem sporočilu, ali

(b) where Article 133, paragraph 2, is not applicable, that the proceedings will be resumed with the applicant for or proprietor of the patent as from the date on which this communication is notified.

(4) The time limits, other than the time limit for making a request for examination and the time limit for paying the renewal fees, in force as regards the applicant for or proprietor of the patent at the date of interruption of the proceedings, shall begin again as from the day on which the proceedings are resumed. If such date is less than two months before the end of the period within which the request for examination must be filed, such a request may be filed up to the end of two months after such date.

Chapter VII

Waiving of enforced recovery procedures

Rule 91

Waiving of enforced recovery procedures

The President of the European Patent Office may waive action for the enforced recovery of any sum due if the sum to be recovered is minimal or if such recovery is too uncertain.

Chapter VIII

Information to the public

Rule 92

Entries in the Register of European Patents

(1) The Register of European Patents shall contain the following entries:

- (a) number of the European patent application;
- (b) date of filing of the European patent application;
- (c) title of the invention;
- (d) classification code given to the European patent application;
- (e) the Contracting States designated;
- (f) family name, given names, address and the State in which the residence or principal place of business of the applicant for or proprietor of the European patent is located;
- (g) family name, given names and address of the inventor designated by the applicant for or proprietor of the patent, unless he has waived his right to be mentioned under Rule 18, paragraph 1;
- (h) family name, given names and address of the place of business of the representative of the applicant for or proprietor of the patent referred to in Article 134; in the case of several representatives only the family name, given names and address of the place of business of the representative first named, followed by the words "and others", shall be entered; however, in the case of an association referred to in Rule 101, paragraph 9, only the name and address of the association shall be entered;
- (i) priority data (date, State and file number of the previous application);
- (j) in the event of a division of the European patent application, the numbers of the European divisional applications;
- (k) in the case of European divisional applications and a new European patent application under Article 61, paragraph 1(b), the information referred to under sub-paragraphs (a), (b) and (i) with regard to the earlier European patent application;

(b) če se drugi odstavek 133. člena ne uporablja, da se bo postopek nadaljeval s prijaviteljem ali imetnikom patenta z datumom uradnega obvestila o tem sporočilu.

(4) Roki, ki veljajo za prijavitelja ali imetnika patenta na datum prekinitve postopka, začnejo ponovno teči z dnem, ko se postopek spet nadaljuje, razen rokov za vložitev zahteve za preizkus in za plačilo pristojbin za podaljšanje veljavnosti. Če je ta datum manj kot dva meseca pred potekom roka za vložitev zahteve za preizkus, se lahko taka zahteva vложи še do poteka dveh mesecev po takem datumu.

VII. poglavje

Odstop od prisilne izterjave

91. pravilo

Odstop od prisilne izterjave

Predsednik Evropskega patentnega urada lahko odstopi od prisilne izterjave katerega koli dolgovanega zneska, če je znesek, ki ga je treba izterjati, neznaten ali je izterjava preveč negotova.

VIII. poglavje

Obveščanje javnosti

92. pravilo

Vpisi v evropski patentni register

(1) Evropski patentni register vsebuje naslednje vpise:

- (a) številko evropske patentne prijave;
- (b) datum vložitve evropske patentne prijave;
- (c) naziv izuma;
- (d) klasifikacijsko kodo evropske patentne prijave;
- (e) imenovane države pogodbenice;
- (f) priimek, ime in naslov prijavitelja ali imetnika patenta in državo njegovega stalnega prebivališča ali sedeža podjetja;
- (g) priimek, ime in naslov izumitelja, ki ga je imenoval prijavitelj ali imetnik patenta, razen če se je izumitelj odpovedal svoji pravici po prvem odstavku 18. pravila, da je omejen;
- (h) priimek, ime in naslov sedeža dejavnosti zastopnika prijavitelja ali imetnika patenta, omenjenega v 134. členu; če je več zastopnikov, se vpišejo samo priimek, ime in naslov sedeža dejavnosti prvega navedenega zastopnika, čemur sledita besedi "in drugi"; če gre za združenje iz devetega odstavka 101. pravila, se vpišeta samo ime in naslov združenja;
- (i) podatke o prednostni pravici (datum, državo in številko vložitve prejšnje prijave);
- (j) številke izločenih evropskih prijav pri izločitvi evropske patentne prijave;
- (k) podatke po pododstavkih (a), (b) in (i) o prvotni evropski patentni prijavi pri izločenih evropskih prijavah in novih evropskih patentnih prijavah po pododstavku (b) prvega odstavka 61. člena;

(l) date of publication of the European patent application and where appropriate date of the separate publication of the European search report;

(m) date of filing of the request for examination;

(n) date on which the European patent application is refused, withdrawn or deemed to be withdrawn;

(o) date of publication of the mention of the grant of the European patent;

(p) date of lapse of the European patent in a Contracting State during the opposition period and, where appropriate, pending a final decision on opposition;

(q) date of filing opposition;

(r) date and purport of the decision on opposition;

(s) dates of suspension and resumption of proceedings in the cases referred to in Rule 13;

(t) dates of interruption and resumption of proceedings in the case referred to in Rule 90;

(u) date of re-establishment of rights provided that an entry has been made in accordance with sub-paragraph (n) or sub-paragraph (r);

(v) the filing of a request to the European Patent Office pursuant to Article 135;

(w) rights and transfer of such rights over a European patent application or European patent where these are recorded pursuant to these Implementing Regulations.

(2) The President of the European Patent Office may decide that entries other than those referred to in paragraph 1 shall be made in the Register of European Patents.

(3) Extracts from the Register of European Patents shall be delivered on request on payment of an administrative fee.

Rule 93

Parts of the file not for inspection

The parts of the file which shall be excluded from inspection pursuant to Article 128, paragraph 4, shall be:

(a) the documents relating to the exclusion of or objections to members of the Boards of Appeal or of the Enlarged Board of Appeal;

(b) draft decisions and opinions, and all other documents, used for the preparation of decisions and opinions, which are not communicated to the parties;

(c) the designation of the inventor, if he has waived his right to be mentioned under Rule 18, paragraph 1;

(d) any other document excluded from inspection by the President of the European Patent Office on the ground that such inspection would not serve the purpose of informing the public about the European patent application or the resulting patent.

Rule 94

Procedures for the inspection of files

(1) Inspection of the files of European patent applications and patents shall either be of the original document, or of copies thereof, or of technical means of storage if the files are stored in this way.

(2) The President of the European Patent Office shall determine all file-inspection arrangements, including the circumstances in which an administrative fee is payable.

(l) datum objave evropske patentne prijave, in kadar je primerno, datum ločene objave evropskega poročila o poizvedbi;

(m) datum vložitve zahteve za preizkus;

(n) datum, na katerega je bila evropska patentna prijava zavrnjena, umaknjena ali se šteje za umaknjeno;

(o) datum objave omembe o podelitvi evropskega patenta;

(p) datum prenehanja veljavnosti evropskega patenta v eni od držav pogodbenic med rokom za ugovor, in kadar je primerno, v času do končne odločitve o ugovoru;

(q) datum vložitve ugovora;

(r) datum in odločitev o ugovoru;

(s) datuma začasne ustavitve in nadaljevanja postopka v primerih iz 13. pravila;

(t) datuma prekinitve in nadaljevanja postopka v primeru 90. pravila;

(u) datum ponovne vzpostavitve pravic, če je bil vpis opravljen v skladu s pododstavkom (n) ali (r);

(v) vložitev zahteve pri Evropskem patentnem uradu na podlagi 135. člena;

(w) pravice do evropske patentne prijave ali do evropskega patenta in prenos takih pravic, če je njihov vpis opravljen na podlagi tega pravilnika o izvajanju.

(2) Predsednik Evropskega patentnega urada lahko odloči, da se v evropski patentni register vpišejo tudi podatki, ki niso omenjeni v prvem odstavku.

(3) Izpiski iz registra evropskih patentov se izdajo na zahtevo ob plačilu upravne pristojbine.

93. pravilo

Deli dokumentacije, v katere ni dovoljen vpogled

Deli dokumentacije, v katere ni dovoljen vpogled na podlagi četrtega odstavka 128. člena, so:

(a) dokumenti, ki se nanašajo na izločitev članov pritožbenih senatov ali razširjenega pritožbenega senata ali ugovor zoper nje;

(b) osnutki odločitev in mnenj ter vsi drugi dokumenti, ki so uporabljeni za pripravo odločitev in mnenj in se ne sporočajo strankam;

(c) imenovanje izumitelja, če se je odpovedal svoji pravici po prvem odstavku 18. pravila, da je omenjen;

(d) vsak drug dokument, v katerega je vpogled prepovedal predsednik Evropskega patentnega urada, ker tak vpogled ne bi rabil obveščanju javnosti o evropski patentni prijavi ali evropskem patentu, ki iz nje izhaja.

94. pravilo

Postopek za vpogled v dokumentacijo

(1) Vpogled v dokumentacijo evropskih patentnih prijav in patentov je bodisi vpogled v izvornik ali njegove kopije bodisi v tehnična sredstva hrambe, če je dokumentacija tako shranjena.

(2) Predsednik Evropskega patentnega urada določi vse podrobnosti vpogleda, vključno s primeri, v katerih se plača upravna pristojbina.

Rule 95**Communication of information contained in the files**

Subject to the restrictions provided for in Article 128, paragraphs 1 to 4, and in Rule 93, the European Patent Office may, upon request, communicate information concerning any file of a European patent application or European patent subject to the payment of an administrative fee. However, the European Patent Office may require the exercise of the option to obtain inspection of the file itself should it deem this to be appropriate in view of the quantity of information to be supplied.

Rule 95a**Constitution, maintenance and preservation of files**

(1) The European Patent Office shall constitute, maintain and preserve files relating to all European patent applications and patents.

(2) The President of the European Patent Office shall determine the form in which the files relating to European patent applications and patents shall be constituted, maintained and preserved.

(3) Documents incorporated in an electronic file shall be considered to be originals.

(4) Files relating to European patent applications and patents shall be preserved for at least five years from the end of the year in which:

(a) the application is refused or withdrawn or is deemed to be withdrawn;

(b) the patent is revoked pursuant to opposition proceedings; or

(c) the patent or the extended term or corresponding protection under Article 63, paragraph 2, lapses in the last of the designated States.

(5) Without prejudice to paragraph 4, files relating to European patent applications which have given rise to divisional applications under Article 76 or new applications under Article 61, paragraph 1(b), shall be preserved for at least the same period as the files relating to any one of these last applications. The same shall apply to files relating to any resulting European patents.

Rule 96**Additional publications by the European Patent Office**

(1) The President of the European Patent Office may provide that, and in what form, the data referred to in Article 128, paragraph 5, shall be communicated to third parties or published.

(2) The President of the European Patent Office may provide for the publication of new or amended claims received after the time mentioned in Rule 49, paragraph 3, the form of such publication and the entry in the European Patent Bulletin of particulars concerning such claims.

Chapter IX

Legal and administrative co-operation**Rule 97****Communications between the European Patent Office and the authorities of the Contracting States**

(1) Communications between the European Patent Office and the central industrial property offices of the Contracting States which arise out of the application of the

95. pravilo**Sporočanje podatkov iz dokumentacije**

Ob upoštevanju omejitev, predvidenih v prvem do četrtem odstavku 128. člena in 93. pravilu, lahko Evropski patentni urad na zahtevo ob plačilu upravne pristojbine sporoči podatke iz katerega koli dokumenta evropske patentne prijave ali evropskega patenta. Evropski patentni urad lahko zahteva, da se izkoristi možnost vpogleda v samo dokumentacijo, če oceni, da je to ustrezno glede na količino podatkov, ki jih je treba dati.

95.a pravilo**Sestavljanje, vzdrževanje in hramba dokumentacije**

(1) Evropski patentni urad sestavi, vzdržuje in hrani dokumentacijo o vseh evropskih patentnih prijavih in patentih.

(2) Predsednik Evropskega patentnega urada določi obliko, v kateri se sestavi, vzdržuje in hrani dokumentacija o evropskih patentnih prijavih in patentih.

(3) Dokumenti iz elektronske dokumentacije se obravnavajo kot izvirniki.

(4) Dokumentacija o evropskih patentnih prijavih in patentih se hrani najmanj pet let po koncu leta, v katerem:

(a) je bila prijava zavrnjena ali umaknjena ali se je štela za umaknjeno;

(b) je bil patent razveljavljen na podlagi postopka ugovora ali

(c) je patent ali njegovo podaljšano trajanje ali ustrezno varstvo po drugem odstavku 63. člena poteklo v zadnji od imenovanih držav.

(5) Brez vpliva na četrty odstavek se dokumentacija o evropskih patentnih prijavih, ki je bila podlaga za izločene prijave po 76. členu ali nove prijave po pododstavku (b) prvega odstavka 61. člena, hrani vsaj toliko časa kot dokumentacija o kateri koli od teh izločenih ali novih prijavi. Enako velja za dokumentacijo o evropskih patentih, ki iz njih izhajajo.

96. pravilo**Druge objave Evropskega patentnega urada**

(1) Predsednik Evropskega patentnega urada lahko predpiše, da se podatki, omenjeni v petem odstavku 128. člena, sporočijo tretjim osebam ali objavijo, in predpiše tudi obliko takih sporočil ali objav.

(2) Predsednik Evropskega patentnega urada lahko predpiše, da se objavijo novi ali spremenjeni patentni zahtevki, prejeti po času, omenjenem v tretjem odstavku 49. pravila, obliko take objave in vpis posebnosti o teh zahtevkih v Evropski patentni bilten.

IX. poglavje

Pravno in upravno sodelovanje**97. pravilo****Izmenjava sporočil med Evropskim patentnim uradom in organi držav pogodbenic**

(1) Evropski patentni urad in osrednji uradi za industrijsko lastnino držav pogodbenic si sporočila, ki izhajajo iz uporabe te konvencije, izmenjujejo neposredno. Izmenjava

Convention shall be effected directly between these authorities. Communications between the European Patent Office and the courts or other authorities of the Contracting States may be effected through the intermediary of the above central industrial property offices.

(2) Expenditure in respect of communications under paragraph 1 shall be chargeable to the authority making the communications, which shall be exempt from fees.

Rule 98

Inspection of files by or via courts or authorities of the Contracting States

(1) Inspection of the files of European patent applications or of European patents by courts or authorities of the Contracting States shall be of the original documents or of copies thereof; Rule 94 shall not apply.

(2) Courts or Public Prosecutors' Offices of the Contracting States may, in the course of their proceedings, communicate to third parties files or copies thereof transmitted to them by the European Patent Office. Such communications shall be effected in accordance with the conditions laid down in Article 128; they shall not incur the payment of the administrative fee.

(3) The European Patent Office shall, at the time of transmission of the files or copies thereof to the courts or Public Prosecutors' Offices of the Contracting States, indicate such restrictions as may, under Article 128, paragraphs 1 and 4, be applicable to the communication to third parties of files concerning a European patent application or a European patent.

Rule 99

Procedure for letters rogatory

(1) Each Contracting State shall designate a central authority which will undertake to receive letters rogatory issued by the European Patent Office and to transmit them to the authority competent to execute them.

(2) The European Patent Office shall draw up letters rogatory in the language of the competent authority or shall attach to such letters rogatory a translation into the language of that authority.

(3) Subject to the provisions of paragraphs 5 and 6, the competent authority shall apply its own law as to the procedures to be followed in executing such requests. In particular, it shall apply appropriate measures of compulsion in accordance with its own law.

(4) If the authority to which the letters rogatory are transmitted is not competent to execute them, the letters rogatory shall be sent forthwith to the central authority referred to in paragraph 1. That authority shall transmit the letters rogatory either to the competent authority in that State, or to the European Patent Office where no authority is competent in that State.

(5) The European Patent Office shall be informed of the time when, and the place where, the enquiry or other legal measure is to take place and shall inform the parties, witnesses and experts concerned.

(6) If so requested by the European Patent Office, the competent authority shall permit the attendance of members of the department concerned and allow them to question any person giving evidence either directly or through the competent authority.

sporočil med Evropskim patentnim uradom in sodišči ali drugimi organi držav pogodbenic lahko poteka s posredovanjem omenjenih osrednjih uradov za industrijsko lastnino.

(2) Stroške v zvezi s sporočili po prvem odstavku nosi organ, ki izda sporočilo, in zanje se ne plača pristojbina.

98. pravilo

Vpogled v dokumentacijo s strani sodišč ali organov držav pogodbenic ali z njihovim posredovanjem

(1) Vpogled v dokumentacijo evropskih patentnih prijav ali evropskih patentov s strani sodišč ali organov držav pogodbenic zadeva izvirne dokumente ali njihove kopije; 94. pravilo se ne uporablja.

(2) Sodišča ali javna tožilstva držav pogodbenic lahko med svojimi postopki izročijo tretjim osebam na vpogled dokumente ali njihove kopije, ki so jih dobili od Evropskega patentnega urada. Take izročitve se opravijo v skladu s pogoji, določenimi v 128. členu, in zanje se ne plača upravna pristojbina.

(3) Ko Evropski patentni urad pošlje dokumente ali njihove kopije sodiščem ali javnim tožilstvom držav pogodbenic, navede omejitve, ki lahko po prvem in četrtem odstavku 128. člena veljajo za izročanje dokumentacije o evropskih patentnih prijavih ali evropskih patentih tretjim osebam.

99. pravilo

Postopek pri zaprosilih za pravno pomoč

(1) Vsaka država pogodbenica imenuje osrednji organ, ki sprejema zaprosila za pravno pomoč od Evropskega patentnega urada in jih pošilja pristojnemu organu, da jih reši.

(2) Evropski patentni urad sestavi zaprosilo za pravno pomoč v jeziku pristojnega organa ali takemu zaprosilu priloži prevod v jeziku tega organa.

(3) Ob upoštevanju določb petega in šestega odstavka uporablja pristojni organ v postopku v zvezi s takim zaprosilom svojo zakonodajo. V skladu s svojo zakonodajo uporablja zlasti ustrezne prisilne ukrepe.

(4) Če organ, ki mu je poslano zaprosilo za pravno pomoč, za njegovo rešitev ni pristojen, se tako zaprosilo takoj pošlje osrednjemu organu iz prvega odstavka. Ta organ pošlje zaprosilo bodisi pristojnemu organu v državi ali Evropskemu patentnemu uradu, če v tej državi ni pristojen noben organ.

(5) Evropski patentni urad mora biti obveščen o času in kraju preiskave ali drugega pravnega ukrepa, sam pa mora obvestiti prizadete stranke, priče in izvedence.

(6) Na zahtevo Evropskega patentnega urada pristojni organ dovoli udeležbo članov zadevnega oddelka in jim dovoli, da neposredno ali po pristojnem organu izprašujejo osebe, ki pričajo.

(7) The execution of letters rogatory shall not give rise to any reimbursement of fees or costs of any nature. Nevertheless, the State in which letters rogatory are executed has the right to require the Organisation to reimburse any fees paid to experts and interpreters and the costs incurred by the procedure of paragraph 6.

(8) If the law applied by the competent authority obliges the parties to secure evidence and the authority is not able itself to execute the letters rogatory, that authority may, with the consent of the European Patent Office, appoint a suitable person to do so. When seeking the consent of the European Patent Office, the competent authority shall indicate the approximate costs which would result from this procedure. If the European Patent Office gives its consent, the Organisation shall reimburse any costs incurred; without such consent, the Organisation shall not be liable for such costs.

Chapter X Representation

Rule 100

Appointment of a common representative

(1) If there is more than one applicant and the request for the grant of a European patent does not name a common representative, the applicant first named in the request shall be considered to be the common representative. However, if one of the applicants is obliged to appoint a professional representative this representative shall be considered to be the common representative unless the first named applicant has appointed a professional representative. The same shall apply *mutatis mutandis* to third parties acting in common in filing notice of opposition or intervention and to joint proprietors of a European patent.

(2) If, during the course of proceedings, transfer is made to more than one person, and such persons have not appointed a common representative, paragraph 1 shall apply. If such application is not possible, the European Patent Office shall require such persons to appoint a common representative within two months. If this request is not complied with, the European Patent Office shall appoint the common representative.

Rule 101 Authorisations

(1) Representatives acting before the European Patent Office shall upon request file a signed authorisation within a period to be specified by the European Patent Office. The President of the European Patent Office shall determine the cases where an authorisation is to be filed. The authorisation may cover one or more European patent applications or European patents and shall be filed in the corresponding number of copies. Where the requirements of Article 133, paragraph 2, have not been satisfied, the same period shall be specified for the notification of the appointment of a representative and for the filing of the authorisation.

(2) A general authorisation enabling a representative to act in respect of all the patent transactions of the party making the authorisation may be filed. A single copy shall be sufficient.

(3) The President of the European Patent Office may determine and publish in the Official Journal of the European Patent Office the form and content of:

(7) Rešitev zaprosila za pravno pomoč ne more biti podlaga za povračilo pristojbin ali kakršnih koli stroškov. Vendar ima država, v kateri je tako zaprosilo rešeno, pravico, da od Organizacije zahteva povračilo pristojbin, plačanih izvedencem in tolmačem, ter stroškov, ki so nastali v postopku po šestem odstavku.

(8) Če morajo po zakonodaji, ki jo uporablja pristojni organ, stranke priskrbeti dokaze, organ pa sam ne more rešiti zaprosila za pravno pomoč, lahko s soglasjem Evropskega patentnega urada določi primerno osebo, da to stori. Ko pristojni organ zaprosi Evropski patentni urad za soglasje, navede približno višino stroškov, ki bodo nastali zaradi tega postopka. Če Evropski patentni urad da soglasje, Organizacija povrne vse nastale stroške; brez takega soglasja Organizacija ni dolžna plačati takih stroškov.

X. poglavje Zastopanje

100. pravilo

Imenovanje skupnega zastopnika

(1) Če je prijaviteljev več in v zahtevi za podelitev evropskega patenta ni naveden skupni zastopnik, se prijavitelj, ki je v zahtevi naveden prvi, šteje za skupnega zastopnika. Če je kdo izmed prijaviteljev dolžan imenovati registriranega zastopnika, se šteje ta zastopnik za skupnega zastopnika, razen če prijavitelj, ki je naveden prvi, ni že imenoval registriranega zastopnika. Enako smiselno velja za tretje osebe, ki skupaj vlagajo ugovor ali zahtevo za posredovanje, in za skupne imetnike evropskega patenta.

(2) Če pride med postopkom do prenosa pravic na več kot eno osebo in če te osebe niso imenovale skupnega zastopnika, se uporablja prvi odstavek. Če ga ni mogoče uporabiti, Evropski patentni urad zahteva od teh oseb, da v dveh mesecih imenujejo skupnega zastopnika. Če tej zahtevi ni ugodeno, imenuje skupnega zastopnika Evropski patentni urad.

101. pravilo Pooblastila

(1) Zastopniki, ki delujejo pri Evropskem patentnem uradu, morajo na zahtevo vložiti podpisano pooblastilo v roku, ki ga določi Evropski patentni urad. Predsednik Evropskega patentnega urada določi, v katerih primerih je treba vložiti pooblastilo. Pooblastilo lahko velja za eno ali več evropskih patentnih prijav ali za enega ali več evropskih patentov in se vloži v ustreznem številu izvodov. Če zahteve iz drugega odstavka 133. člena niso izpolnjene, se isti rok določi za uradno obvestilo o imenovanju zastopnika in za vložitev pooblastila.

(2) Lahko se vloži tudi splošno pooblastilo, s katerim se zastopnik pooblasti za vse patentne zadeve stranke, ki izda pooblastilo. To pooblastilo se vloži v enem izvodu.

(3) Predsednik Evropskega patentnega urada lahko določi in v uradnem glasilu Evropskega patentnega urada tudi objavi obliko in vsebino:

(a) an authorisation in so far as it relates to the representation of persons as defined in Article 133, paragraph 2;

(b) a general authorisation.

(4) If the authorisation is not filed in due time, any procedural steps taken by the representative other than the filing of a European patent application shall, without prejudice to any other legal consequences provided for in the Convention, be deemed not to have been taken.

(5) The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis* to a document withdrawing an authorisation.

(6) Any representative who has ceased to be authorised shall continue to be regarded as the representative until the termination of his authorization has been communicated to the European Patent Office.

(7) Subject to any provisions to the contrary contained therein, an authorisation shall not terminate *vis-à-vis* the European Patent Office upon the death of the person who gave it.

(8) If several representatives are appointed by a party, they may, notwithstanding any provisions to the contrary in the notification of their appointment or in the authorisation, act either jointly or singly.

(9) The authorisation of an association of representatives shall be deemed to be authorisation of any representative who can establish that he practises within that association.

Rule 102

Amendment of the list of professional representatives

(1) The entry of a professional representative shall be deleted from the list of professional representatives if he so requests or if, despite repeated reminders, he fails to pay the annual subscription to the Institute of Professional Representatives before the European Patent Office before the end of the year for which the subscription is due.

(2) After the expiry of the transitional period provided for in Article 163, paragraph 1, and without prejudice to any disciplinary measures taken under Article 134, paragraph 8(c), the entry of any professional representative may be deleted automatically in the following cases only:

(a) in the event of the death or legal incapacity of the professional representative;

(b) in the event of the professional representative no longer being a national of one of the Contracting States, unless he was entered on the list during the transitional period or was granted exemption by the President of the European Patent Office in accordance with Article 134, paragraph 6;

(c) in the event of the professional representative no longer having his place of business or employment within the territory of one of the Contracting States.

(3) A person whose entry has been deleted shall, upon request, be re-entered in the list of professional representatives if the conditions for deletion no longer exist.

(a) pooblastila, ki se nanaša na zastopanje oseb po drugem odstavku 133. člena;

(b) splošnega pooblastila.

(4) Če pooblastilo ni vloženo pravočasno, se brez vpliva na druge pravne posledice, predvidene v tej konvenciji, vsa postopkovna dejanja zastopnika, razen vložitve evropske patentne prijave, štejejo, kot da niso bila storjena.

(5) Določbe prvega in drugega odstavka se smiselno uporabljajo za dokument, s katerim se pooblastilo umakne.

(6) Zastopnik, ki ni več pooblaščen, se šteje za zastopnika, dokler o prenehanju njegovega pooblastila ni obveščen Evropski patentni urad.

(7) Pooblastilo za Evropski patentni urad ne preneha s smrtjo osebe, ki ga je dala, razen če s pooblastilom ni določeno drugače.

(8) Če je stranka imenovala več zastopnikov, lahko ti delujejo skupno ali posamezno ne glede na morebitne nasprotno določbe v uradnem obvestilu o njihovem imenovanju ali v pooblastilu.

(9) Pooblastilo, dano združenju zastopnikov, se šteje za pooblastilo, dano vsakemu zastopniku, ki lahko dokaže, da dela v okviru tega združenja.

102. pravilo

Sprememba seznama registriranih zastopnikov

(1) Vpis registriranega zastopnika se izbriše s seznama registriranih zastopnikov, če to sam zahteva ali če kljub ponovnemu opominu ne plača letne članarine Inštitutu registriranih zastopnikov pri Evropskem patentnem uradu pred koncem leta, za katero dolguje članarino.

(2) Po poteku prehodnega obdobja, določenega v prvem odstavku 163. člena, in brez vpliva na disciplinske ukrepe, sprejete po pododstavku (c) osmega odstavka 134. člena, se vpis registriranega zastopnika lahko samodejno izbriše le:

(a) če registrirani zastopnik umre ali je opravično nesposoben;

(b) če registrirani zastopnik ni več državljan države pogodbenice, razen če je bil vpisan v seznam med prehodnim obdobjem ali če je predsednik Evropskega patentnega urada odobril izjemo v skladu s šestim odstavkom 134. člena;

(c) če registrirani zastopnik nima več sedeža dejavnosti ali ni več zaposlen na ozemlju države pogodbenice.

(3) Oseba, katere vpis je izbrisan, se na zahtevo ponovno vpiše na seznam registriranih zastopnikov, če so prenehali razlogi za izbris.

PART VIII
IMPLEMENTING REGULATIONS TO PART VIII OF THE
CONVENTION

Rule 103

Information to the public in the event of conversion

(1) The documents which, in accordance with Article 136, accompany the request for conversion shall be communicated to the public by the central industrial property office under the same conditions and to the same extent as documents relating to national proceedings.

(2) The printed specifications of the national patent resulting from the conversion of a European patent application must mention that application.

PART IX
IMPLEMENTING REGULATIONS TO PART X OF THE
CONVENTION

Rule 104

The European Patent Office as a receiving Office

(1) When the European Patent Office acts as a receiving Office under the Cooperation Treaty, the international application shall be filed in English, French or German. It shall be filed in three copies; the same applies to any of the documents referred to in the check list provided for in Rule 3.3(a)(ii) of the Regulations under the Cooperation Treaty except the receipt for the fees paid or the cheque for the payment of fees. The President of the European Patent Office may, however, decide that the international application and any related item shall be filed in fewer than three copies.

(2) If the provisions of paragraph 1, second sentence, are not complied with, the missing copies shall be prepared by the European Patent Office at the expense of the applicant.

(3) If an international application is filed with an authority of a Contracting State for transmittal to the European Patent Office as the receiving Office, the Contracting State must ensure that the application reaches the European Patent Office not later than two weeks before the end of the thirteenth month after filing or, if priority is claimed, after the date of priority.

Rule 105

The European Patent Office as an International Searching Authority or International Preliminary Examining Authority

(1) In the case of Article 17, paragraph 3(a), of the Cooperation Treaty, an additional fee equal to the amount of the search fee shall be payable for each further invention for which an international search is to be carried out.

(2) In the case of Article 34, paragraph 3(a), of the Cooperation Treaty, an additional fee equal to the amount of the preliminary examination fee shall be payable for each further invention for which the international preliminary examination is to be carried out.

(3) Without prejudice to Rules 40.2(e) and 68.3(e) of the Regulations under the Cooperation Treaty, where an additional fee has been paid under protest, the European Patent Office shall review whether the invitation to pay the additional fee was justified and, if it does not so find, shall refund the additional fee. If the European Patent Office after

VIII. DEL
PRAVILNIK O IZVAJANJU VIII. DELA KONVENCIJE

103. pravilo

Obveščanje javnosti pri pretvorbi prijave

(1) O dokumentih, ki se v skladu s 136. členom priložijo k zahtevi za pretvorbo, obvesti javnost osrednji urad za industrijsko lastnino pod enakimi pogoji in v enakem obsegu, kot to velja za dokumente, ki se nanašajo na državni postopek.

(2) V tiskanih patentnih spisih državnega patenta, ki nastanejo na podlagi pretvorbe evropske patentne prijave, mora biti navedena ta prijava.

IX. DEL
PRAVILNIK O IZVAJANJU X. DELA KONVENCIJE

104. pravilo

Evropski patentni urad kot prejemni urad

(1) Kadar Evropski patentni urad deluje kot prejemni urad po Pogodbi o sodelovanju, se mednarodna prijava vložijo v angleščini, francoščini ali nemščini. Vloži se v treh izvodih; enako velja za vse dokumente, omenjene na kontrolnem seznamu, predvidenem v točki (ii) pododstavka (a) 3.3 pravila pravilnika Pogodbe o sodelovanju, razen za potrdilo o plačilu pristojbin ali za ček za plačilo pristojbin. Predsednik Evropskega patentnega urada lahko določi, da se mednarodna prijava in vsak z njo povezan dokument vložijo v manj kot treh izvodih.

(2) Če določbe iz drugega stavka prvega odstavka niso izpolnjene, pripravi Evropski patentni urad manjkajoče izvode na stroške prijavitelja.

(3) Če je mednarodna prijava vložena pri organu države pogodbenice, da jo ta pošlje Evropskemu patentnemu uradu kot prejemnemu uradu, mora država pogodbenica poskrbeti, da Evropski patentni urad dobi prijavo najpozneje dva tedna pred koncem trinajstega meseca od njene vložitve ali od prednostnega datuma, če se zahteva prednostna pravica.

105. pravilo

Evropski patentni urad kot organ za mednarodno poizvedbo ali organ za mednarodni predhodni preizkus

(1) V primeru iz pododstavka (a) tretjega odstavka 17. člena Pogodbe o sodelovanju je treba plačati dodatno pristojbino v višini pristojbine za poizvedbo za vsak nadaljnji izum, za katerega je treba opraviti mednarodno poizvedbo.

(2) V primeru iz pododstavka (a) tretjega odstavka 34. člena Pogodbe o sodelovanju je treba plačati dodatno pristojbino v višini pristojbine za predhodni preizkus za vsak nadaljnji izum, za katerega je treba opraviti mednarodni predhodni preizkus.

(3) Če je bila dodatna pristojbina plačana s protestom, Evropski patentni urad brez vpliva na pododstavek (e) 40.2 pravila in pododstavek (e) 68.3 pravila pravilnika Pogodbe o sodelovanju preveri, ali je bil poziv k plačilu dodatne pristojbine utemeljen, in če ugotovi, da ni bil, povrne dodatno pristojbino. Če Evropski patentni urad po takem preverjanju

such a review considers the invitation to be justified, it shall inform the applicant accordingly and shall invite him to pay a fee for the examination of the protest ("protest fee"). If the protest fee is paid in due time, the protest shall be referred to the Board of Appeal for a decision.

Rule 106

The national fee

The national fee provided for in Article 158, paragraph 2, shall comprise the following fees:

- (a) a national basic fee equal to the filing fee provided for in Article 78, paragraph 2, and
- (b) the designation fees provided for in Article 79, paragraph 2.

Rule 107

The European Patent Office as a designated or elected Office - Requirements for entry into the European phase

(1) In the case of an international application as referred to in Article 150, paragraph 3, the applicant must perform the following acts within a period of thirty-one months from the date of filing of the application or, if priority has been claimed, from the priority date:

(a) supply, where applicable, the translation of the international application required under Article 158, paragraph 2;

(b) specify the application documents, as originally filed or in amended form, on which the European grant procedure is to be based;

(c) pay the national basic fee provided for in Rule 106(a);

(d) pay the designation fees if the time limit specified in Article 79, paragraph 2, has expired earlier;

(e) pay the search fee provided for in Article 157, paragraph 2(b), where a supplementary European search report has to be drawn up;

(f) file the request for examination provided for in Article 94, if the time limit specified in Article 94, paragraph 2, has expired earlier;

(g) pay the renewal fee in respect of the third year provided for in Article 86, paragraph 1, if the fee has fallen due earlier under Rule 37, paragraph 1;

(h) file, where applicable, the certificate of exhibition referred to in Article 55, paragraph 2, and Rule 23.

(2) Where the European Patent Office has drawn up an international preliminary examination report the examination fee shall be reduced as laid down in the Rules relating to Fees. If the report was established on certain parts of the international application in accordance with Article 34, paragraph 3(c), of the Cooperation Treaty, the reduction shall be allowed only if examination is to be performed on the subject-matter covered by the report.

Rule 108

Consequences of non-fulfilment of certain requirements

(1) If either the translation of the international application or the request for examination is not filed in due time, or if the national basic fee or the search fee is not paid in due time, or if no designation fee is paid in due time, the European patent application shall be deemed to be withdrawn.

ugotovi, da je bil poziv utemeljen, o tem obvesti prijavitelja in ga pozove k plačilu pristojbine za preizkus protesta ("pristojbina za protest"). Če je pristojbina za protest pravočasno plačana, se protest predloži pritožbenemu senatu, da o njem odloči.

106. pravilo

Državna pristojbina

Državna pristojbina, predvidena v drugem odstavku 158. člena, vključuje naslednje pristojbine:

- (a) državno osnovno pristojbino, ki je enaka prijavi pristojbini, predvideni v drugem odstavku 78. člena, in
- (b) pristojbine za imenovanje, predvidene v drugem odstavku 79. člena.

107. pravilo

Evropski patentni urad kot imenovani ali izbrani urad – Pogoji za vstop v evropsko fazo

(1) Pri mednarodni prijavi iz tretjega odstavka 150. člena mora prijavitelj v enaintridesetih mesecih od datuma vložitve prijave ali prednostnega datuma, če je bila zahtevana prednost, opraviti naslednja dejanja:

(a) predložiti, kadar je primerno, prevod mednarodne prijave, ki se zahteva po drugem odstavku 158. člena;

(b) natančno navesti dokumente prijave, kot so bili prvotno vloženi ali v spremenjeni obliki, ki bodo podlaga za evropski postopek podelitve;

(c) plačati državno osnovno pristojbino, predvideno v pododstavku (a) 106. pravila;

(d) plačati pristojbine za imenovanja, če je rok, določen v drugem odstavku 79. člena, prej potekel;

(e) plačati pristojbino za poizvedbo, predvideno v pododstavku (b) drugega odstavka 157. člena, kadar je treba sestaviti dodatno evropsko poročilo o poizvedbi;

(f) vložiti zahtevo za preizkus, predvideno v 94. členu, če je rok iz drugega odstavka 94. člena prej potekel;

(g) plačati pristojbino za podaljšanje veljavnosti za tretje leto, predvideno v prvem odstavku 86. člena, če je ta pristojbina po prvem odstavku 37. pravila prej zapadla v plačilo;

(h) vložiti, kadar je primerno, potrdilo o razstavitvi iz drugega odstavka 55. člena in 23. pravila.

(2) Če je Evropski patentni urad sestavil poročilo o mednarodnem predhodnem preizkusu, se pristojbina za preizkus zniža, kot je določeno v predpisih o pristojbinah. Če je bilo poročilo sestavljeno o posameznih delih mednarodne prijave v skladu s pododstavkom (c) tretjega odstavka 34. člena Pogodbe o sodelovanju, se znižanje dovoli le, če bo preizkus opravljen na predmetu, ki ga obravnava poročilo.

108. pravilo

Posledica neizpolnitve nekaterih zahtev

(1) Če prevod mednarodne prijave ali zahteva za preizkus ni pravočasno vložena ali če državna osnovna pristojbina ali pristojbina za poizvedbo ni pravočasno plačana ali če nobena pristojbina za imenovanje ni pravočasno plačana, se šteje evropska patentna prijava za umaknjeno.

(2) The designation of any Contracting State in respect of which the designation fee has not been paid in due time shall be deemed to be withdrawn.

(3) If the European Patent Office notes that the application or the designation of a Contracting State is deemed to be withdrawn under paragraph 1 or 2, it shall communicate this to the applicant. Rule 69, paragraph 2, shall apply *mutatis mutandis*. The loss of rights shall be deemed not to have occurred if, within two months of notification of the communication under sentence 1, the omitted act is completed and a surcharge is paid.

Rule 109
Amendment of the application

Without prejudice to Rule 86, paragraphs 2 to 4, the application may be amended once, within a non-extendable period of one month as from notification of a communication informing the applicant accordingly. The application as amended shall serve as the basis for any supplementary search which has to be performed under Article 157, paragraph 2.

Rule 110
Claims incurring fees Consequence of non-payment

(1) If the application documents on which the European grant procedure is to be based comprise more than ten claims, a claims fee shall be payable for the eleventh and each subsequent claim within the period provided for in Rule 107, paragraph 1.

(2) Any claims fees not paid in due time may still be validly paid within a non-extendable period of grace of one month as from notification of a communication pointing out the failure to pay. If within this period amended claims are filed, the claims fees due shall be computed on the basis of such amended claims.

(3) Any claims fees paid within the period provided for in paragraph 1 and which are in excess of those due under paragraph 2, second sentence, shall be refunded.

(4) Where a claims fee is not paid in due time, the claim concerned shall be deemed to be abandoned.

Rule 111
Examination of certain formal requirements by the European Patent Office

(1) If the data concerning the inventor prescribed in Rule 17, paragraph 1, have not yet been submitted at the expiry of the period provided for in Rule 107, paragraph 1, the European Patent Office shall invite the applicant to furnish the data within such period as it shall specify.

(2) Where the priority of an earlier application is claimed and the file number or copy provided for in Article 88, paragraph 1, and Rule 38, paragraphs 1 to 3, have not yet been submitted at the expiry of the period provided for in Rule 107, paragraph 1, the European Patent Office shall invite the applicant to furnish the number or copy of the earlier application within such period as it shall specify. Rule 38, paragraph 4, shall apply.

(2) Imenovanje neke države pogodbenice, za katero ni bila pravočasno plačana pristojbina za imenovanje, se šteje za umaknjeno.

(3) Če Evropski patentni urad ugotovi, da se prijava ali imenovanje neke države pogodbenice šteje za umaknjeno po prvem ali drugem odstavku, to sporoči prijavitelju. Drugi odstavek 69. pravila se uporablja smiselno. Šteje se, da do izgube pravic ni prišlo, če se v dveh mesecih od uradnega obvestila o sporočilu po prvem stavku opravi opuščeno dejanje in plača dodatna pristojbina.

109. pravilo
Sprememba prijave

Brez vpliva na drugi do četrty odstavki 86. pravila se lahko prijava spremeni enkrat v nepodaljšljivem enomesečnem roku po uradnem obvestilu o sporočilu, s katerim je bil prijavitelj o tej možnosti obveščen. Prijava v spremenjeni obliki je podlaga za vsako dodatno poizvedbo, ki mora biti opravljena po drugem odstavku 157. člena.

110. pravilo
Patentni zahtevki, za katere se plačujejo pristojbine
Posledica neplačila

(1) Če dokumenti prijave, ki bodo podlaga za evropski postopek podelitve, vsebujejo več kot deset patentnih zahtevkov, se za enajstega in za vsakega nadaljnega plača pristojbina za patentne zahtevke v roku, predvidenem v prvem odstavku 107. pravila.

(2) Pristojbine za patentne zahtevke, ki niso pravočasno plačane, se lahko še vedno veljavno plačajo v nepodaljšljivem dodatnem enomesečnem roku po uradnem obvestilu o sporočilu o neplačilu. Če so v tem roku vloženi spremenjeni patentni zahtevki, se dolgovane pristojbine za patentne zahtevke izračunajo na podlagi tako spremenjenih patentnih zahtevkov.

(3) Pristojbine za patentne zahtevke, ki so plačane v roku, predvidenem v prvem odstavku, in ki presegajo tiste, ki jih je treba plačati po drugem stavku drugega odstavka, se povrnejo.

(4) Če pristojbina za patentne zahtevke ni pravočasno plačana, se patentni zahtevek šteje za opuščenega.

111. pravilo
Preizkus nekaterih formalnih zahtev pri Evropskem patentnem uradu

(1) Če podatki o izumitelju, predpisani v prvem odstavku 17. pravila, niso predloženi do poteka roka, predvidenega v prvem odstavku 107. pravila, Evropski patentni urad pozove prijavitelja, da jih dostavi v roku, ki ga določi.

(2) Če se zahteva prednost prejšnje prijave in številka vložitve te prijave ali kopija, predvidena v prvem odstavku 88. člena in prvem do tretjem odstavku 38. pravila, ni bila predložena do poteka roka, predvidenega v prvem odstavku 107. pravila, Evropski patentni urad pozove prijavitelja, da predloži številko vložitve ali kopijo te prejšnje prijave v roku, ki ga določi. Uporablja se četrty odstavek 38. pravila.

(3) If at the expiry of the period provided for in Rule 107, paragraph 1, a sequence listing as prescribed in Rule 5.2 of the Regulations under the Cooperation Treaty is not available to the European Patent Office, or does not conform to the prescribed standard, or has not been filed on the prescribed data carrier, the applicant shall be invited to file a sequence listing conforming to the prescribed standard or on the prescribed data carrier within such period as the European Patent Office shall specify.

Rule 112
Consideration of unity by
the European Patent Office

If only a part of the international application has been searched by the International Searching Authority because that Authority considered that the application did not comply with the requirement of unity of invention, and the applicant did not pay all additional fees according to Article 17, paragraph 3(a), of the Cooperation Treaty within the prescribed time limit, the European Patent Office shall consider whether the application complies with the requirement of unity of invention. If the European Patent Office considers that this is not the case, it shall inform the applicant that a European search report can be obtained in respect of those parts of the international application which have not been searched if a search fee is paid for each invention involved within a period specified by the European Patent Office which may not be shorter than two weeks and may not exceed six weeks. The Search Division shall draw up a European search report for those parts of the international application which relate to inventions in respect of which search fees have been paid. Rule 46, paragraph 2, shall apply *mutatis mutandis*.

(3) Če do poteka roka, predvidenega v prvem odstavku 107. pravila, seznam zaporedij, kot ga predpisuje 5.2 pravilo pravilnika Pogodbe o sodelovanju, ne dospe do Evropskega patentnega urada ali se ne sklada s predpisanim standardom ali ni bil vložen na predpisanem nosilcu podatkov, je prijavitelj pozvan, da vloži seznam zaporedij, ki je skladen s predpisanim standardom ali je na predpisanem nosilcu podatkov, v roku, ki ga določi Evropski patentni urad.

112. pravilo
Preizkus enotnosti pri
Evropskem patentnem uradu

Če je organ za mednarodno poizvedbo opravil poizvedbo samo za en del mednarodne prijave, ker je menil, da mednarodna prijava ne ustreza zahtevi glede enotnosti izuma, in če prijavitelj v predpisanem roku ni plačal vseh dodatnih pristojbin po pododstavku (a) tretjega odstavka 17. člena Pogodbe o sodelovanju, Evropski patentni urad preveri, ali prijava ustreza zahtevi glede enotnosti izuma. Če Evropski patentni urad meni, da ni tako, sporoči prijavitelju, da lahko dobi evropsko poročilo o poizvedbi za tiste dele mednarodne prijave, za katere ni bila opravljena poizvedba, če se za vsak zadevni izum plača pristojbina za poizvedbo v roku, ki ga določi Evropski patentni urad in ki ne sme biti krajši od dveh in ne daljši od šestih tednov. Oddelek za poizvedbe sestavi evropsko poročilo o poizvedbi za tiste dele mednarodne prijave, ki se nanašajo na izume, za katere so bile plačane pristojbine za poizvedbo. Smiselno se uporablja drugi odstavek 46. pravila.

3. člen

Za izvajanje pravilnika skrbi Ministrstvo za gospodarstvo – Urad Republike Slovenije za intelektualno lastnino.

4. člen

Ta uredba začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 908-08/2001-10
Ljubljana, dne 5. junija 2003
EVA 2003-1811-0030

Vlada Republike Slovenije

mag. Anton Rop l. r.
Predsednik

44. Uredba o ratifikaciji Pravilnika o pristojbinah z dne 20. oktobra 1977, kot je bil zadnjič spremenjen z odločitvijo upravnega sveta Evropske patentne organizacije z dne 13. decembra 2001

Na podlagi petega odstavka 75. člena Zakona o zunanjih zadevah (Uradni list Republike Slovenije, št. 45/01) izdaja Vlada Republike Slovenije

U R E D B O

O RATIFIKACIJI PRAVILNIKA O PRISTOJBINAH Z DNE 20. OKTOBRA 1977, KOT JE BIL ZADNJIČ SPREMNEN Z ODLOČITVIJO UPRAVNEGA SVETA EVROPSKE PATENTNE ORGANIZACIJE Z DNE 13. DECEMBRA 2001

1. člen

Ratificira se Pravilnik o pristojbinah z dne 20. oktobra 1977, kot je bil zadnjič spremenjen z odločitvijo upravnega sveta Evropske patentne organizacije z dne 13. decembra 2001, ki ga je upravni svet Evropske patentne organizacije sprejel za izvajanje Konvencije o podeljevanju evropskih patentov.

2. člen

Besedilo pravilnika iz 1. člena se v izvorniku v angleškem jeziku in v prevodu v slovenskem jeziku glasi:

**RULES
RELATING TO FEES
of 20 October 1977
as last amended by decision of the
Administrative Council of the European Patent
Organisation of 13 December 2001**

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,
HAVING REGARD to the European Patent Convention and in particular Article 33, paragraph 2(d), thereof,

HAS ADOPTED THE FOLLOWING RULES RELATING TO FEES:

**Article 1
General**

The following shall be levied in accordance with the provisions contained in these Rules:

(a) fees due to be paid to the European Patent Office (hereinafter referred to as the Office) as provided for in the Convention and in the Implementing Regulations and the fees and costs which the President of the Office lays down pursuant to Article 3, paragraph 1;

(b) fees and costs pursuant to the Patent Cooperation Treaty (hereinafter referred to as the PCT), the amounts of which may be fixed by the Office.

**Article 2
Fees provided for in the Convention and in the
Implementing Regulations**

The fees due to be paid to the Office under Article 1 shall be as follows:

1. Filing fee (Article 78, paragraph 2); national basic fee (Rule 106(a))	EUR 125
2. Search fee in respect of – a European or supplementary European search (Article 78, paragraph 2, Rules 46, para- graph 1, and 112, Article 157, paragraph 2(b))	EUR 690
– an international search (Rule 16.1 PCT and Rule 105, paragraph 1)	945

**PRAVILNIK
O PRISTOJBINAH
z dne 20. oktobra 1977,
kot je bil zadnjič spremenjen z odločitvijo
upravnega sveta Evropske patentne organizacije
z dne 13. decembra 2001**

UPRAVNI SVET EVROPSKE PATENTNE ORGANIZACIJE JE

OB UPOŠTEVANJU Konvencije o podeljevanju evropskih patentov in zlasti njenega pododstavka (d) drugega odstavka 33. člena

SPREJEL NASLEDNJI PRAVILNIK O PRISTOJBINAH:

**1. člen
Splošno**

V skladu s pravilnikom o pristojbinah se pobirajo:

(a) pristojbine, ki jih je treba plačati Evropskemu patentnemu uradu, v nadaljevanju imenovanemu Urad, kot je določeno v konvenciji in pravilniku o izvajanju, ter pristojbine in stroški, ki jih določi predsednik Urada po prvem odstavku 3. člena;

(b) pristojbine in stroški po Pogodbi o sodelovanju na področju patentov, v nadaljevanju imenovani PCT, katerih višino lahko določi Urad.

**2. člen
Pristojbine, določene v konvenciji in pravilniku o
izvajanju**

Pristojbine, ki jih je treba plačati Uradu po 1. členu, so:

1. Prijavna pristojbina (drugi odstavek 78. člena); državna osnovna pristojbina (pododstavek (a) 106. pravila)	EUR 125 EUR
2. Pristojbina za poizvedbo za – evropsko ali dodatno evropsko poizvedbo (drugi odstavek 78. člena, prvi odstavek 46. pravila, 112. pravilo, pododstavek (b) drugega odstavka 157. člena)	690
– mednarodno poizvedbo (prvi odstavek 16. pravila PCT in prvi odstavek 105. pravila)	945

	EUR		EUR
3. Designation fee for each contracting state designated (Article 79, paragraph 2), designation fees being deemed paid for all contracting states upon payment of seven times the amount of this fee	75	3. Pristojbina za imenovanje za vsako imenovano državo pogodbenico (drugi odstavek 79. člena), pri čemer se šteje, da so pristojbine za imenovanje plačane za vse države pogodbenice ob plačilu sedemkratnega zneska te pristojbine	75
3a. Joint designation fee for the Swiss Confederation and the Principality of Liechtenstein	75	3.a Skupna pristojbina za imenovanje za Švicarsko konfederacijo in Kneževino Lihtenštajn	75
3b. Surcharge for late payment of the filing fee, the search fee or the designation fees (Rule 85a)	50% of the relevant fee or fees, but not to exceed a total of EUR 650	3.b Dodatna pristojbina za zakasnelo plačilo prijave pristojbine, pristojbine za poizvedbo ali pristojbin za imenovanje (85.a pravilo)	50% pristojbine ali pristojbin, vendar skupno največ 650 EUR
3c. Surcharge for late filing of either the translation of the international application or the request for examination, or for late payment of the national basic fee, the search fee or the designation fees (Rule 108(3))	50% of the relevant fees, but at least EUR 500 for late filing of the translation, up to a maximum of EUR 1 750	3.c Dodatna pristojbina za zakasnelo vložitev prevoda mednarodne prijave ali zahteve za preizkus ali za zakasnelo plačilo državne osnovne pristojbine, pristojbine za poizvedbo ali pristojbin za imenovanje (tretji odstavek 108. pravila)	50% pristojbin, vendar najmanj 500 EUR za zakasnelo vložitev prevoda, do največ 1750 EUR
4. Renewal fees for the European patent application (Article 86, paragraph 1), calculated in each case from the date of filing of the application		4. Pristojbina za podaljšanje veljavnosti evropske patentne prijave (prvi odstavek 86. člena), računana vsakič od datuma vložitve prijave	
- for the 3rd year	380	- za tretje leto	380
- for the 4th year	405	- za četrto leto	405
- for the 5th year	430	- za peto leto	430
- for the 6th year	715	- za šesto leto	715
- for the 7th year	740	- za sedmo leto	740
- for the 8th year	765	- za osmo leto	765
- for the 9th year	970	- za deveto leto	970
- for the 10th and each subsequent year	1020	- za deseto in vsako naslednje leto	1020
5. Additional fee for belated payment of a renewal fee for the European patent application (Article 86, paragraph 2)	10% of the belated renewal fee	5. Dodatna pristojbina za zamujeno plačilo pristojbine za podaljšanje veljavnosti evropske patentne prijave (drugi odstavek 86. člena)	10% zamujene pristojbine za podaljšanje veljavnosti
6. Examination fee (Article 94, paragraph 2)	1430	6. Pristojbina za preizkus (drugi odstavek 94. člena)	1430
7. Surcharge for late filing of the request for examination (Rule 85b)	50% of the examination fee	7. Dodatna pristojbina za zakasnelo vložitev zahteve za preizkus (85.b pravilo)	50% pristojbine za preizkus
8. Fee for grant, including fee for printing the European patent specification (Article 97, paragraph 2(b)), where the application documents to be printed comprise:		8. Pristojbina za podelitev patenta, vključno s pristojbino za tiskanje evropskega patentnega spisa (pododstavek (b) drugega odstavka 97. člena), če število strani dokumentov prijave, ki jih je treba tiskati:	
8.1 not more than 35 pages	715	8.1 ne presega 35 strani	715
8.2 more than 35 pages	715	8.2 presega 35 strani	715
	plus EUR 10 for the 36th and each subsequent page		in 10 EUR za 36. in vsako nadaljnjo stran
9. Fee for printing a new specification of the European patent (Article 102, paragraph 3(b))		9. Pristojbina za tiskanje novega evropskega patentnega spisa (pododstavek (b) tretjega odstavka 102. člena)	
- flat-rate fee	50	- pavšalna pristojbina	50
10. Opposition fee (Article 99, paragraph 1, and Article 105, paragraph 2)	610	10. Pristojbina za ugovor (prvi odstavek 99. člena in drugi odstavek 105. člena)	610
11. Fee for appeal (Article 108)	1020	11. Pristojbina za pritožbo (108. člen)	1020

12. Fee for further processing (Article 121, paragraph 2)	75	12. Pristojbina za nadaljevanje postopka (drugi odstavek 121. člena)	75
13. Fee for re-establishment of rights (Article 122, paragraph 3)	75	13. Pristojbina za ponovno vzpostavitev pravic (tretji odstavek 122. člena)	75
14. Conversion fee (Article 136, paragraph 1, and Article 140)	50	14. Pristojbina za pretvorbo (prvi odstavek 136. člena in 140. člen)	50
15. Claims fee for the eleventh and each subsequent claim (Rules 31, paragraph 1, 51, paragraph 7, and 110, paragraph 1)	40	15. Pristojbina za patentne zahtevke za enajsti in vsak nadaljnji zahtevek (prvi odstavek 31. pravila, sedmi odstavek 51. pravila in prvi odstavek 110. pravila)	40
16. Fee for the awarding of costs (Rule 63, paragraph 3)	50	16. Pristojbina za določitev stroškov (tretji odstavek 63. pravila)	50
17. Fee for the conservation of evidence (Rule 75, paragraph 3)	50	17. Pristojbina za zavarovanje dokazov (tretji odstavek 75. pravila)	50
18. Transmittal fee for an international application (Article 152, paragraph 3)	100	18. Pristojbina za pošiljanje mednarodne prijave (tretji odstavek 152. člena)	100
19. Fee for the preliminary examination of an international application (Rule 58 PCT and Rule 105, paragraph 2)	1530	19. Pristojbina za predhodni preizkus mednarodne prijave (58. pravilo PCT in drugi odstavek 105. pravila)	1530
20. Fee for a technical opinion (Article 25)	3060	20. Pristojbina za strokovno mnenje (25. člen)	3060
21. Protest fee (Rules 40.2(e) and 68.3(e) PCT, Rule 105, paragraph 3)	1020	21. Pristojbina za protest (pododstavek (e) drugega odstavka 40. pravila PCT in pododstavek (e) tretjega odstavka 68. pravila PCT, tretji odstavek 105. pravila)	1020

Article 3

Fees, costs and prices laid down by the President of the Office

(1) The President of the Office shall lay down the amount of the administrative fees provided for in the Implementing Regulations and, where appropriate, the amount of the fees and costs for any services rendered by the Office other than those specified in Article 2.

(2) He shall also lay down the prices of the publications referred to in Articles 93, 98, 103 and 129 of the Convention.

(3) The amounts of the fees provided for in Article 2 and of the fees and costs laid down in accordance with paragraph 1 shall be published in the Official Journal of the European Patent Office.

Article 4

Due date for fees

(1) Fees in respect of which the due date is not specified in the provisions of the Convention or of the PCT or of the Implementing Regulations thereto shall be due on the date of receipt of the request for the service incurring the fee concerned.

(2) The President of the Office may decide not to make services within the meaning of paragraph 1 dependent upon the advance payment of the corresponding fee.

Article 5

Payment of fees

(1) The fees due to the Office shall be paid in euro:

(a) by payment or transfer to a bank account held by the Office,

3. člen

Pristojbine, stroški in cene, ki jih določi predsednik Urada

(1) Predsednik Urada predpiše višino upravnih pristojbin, določenih v pravilniku o izvajanju, in kadar je primerno, višino pristojbin in stroškov za storitve, ki jih opravlja Urad, razen tistih iz 2. člena.

(2) Prav tako predpiše cene objav iz 93., 98., 103. in 129. člena konvencije.

(3) Višina pristojbin iz 2. člena ter pristojbin in stroškov, določenih v skladu s prvim odstavkom, se objavi v Uradnem glasilu Evropskega patentnega urada.

4. člen

Datum zapadlosti pristojbin

(1) Pristojbine, katerih datum zapadlosti ni določen v določbah konvencije oziroma PCT ali njenih pravilnikih o izvajanju, zapadejo v plačilo na datum prejema zahteve za storitev, za katero je treba plačati pristojbino.

(2) Predsednik Urada lahko odloči, da pristojbin za storitve iz prvega odstavka ni treba plačati vnaprej.

5. člen

Plačilo pristojbin

(1) Pristojbine, ki jih je treba plačati Uradu, se plačujejo v evrih:

(a) s plačilom ali prenosom na bančni račun Urada,

(b) by payment or transfer to a Giro account held by the Office, or

(c) by delivery or remittance of cheques made payable to the Office.

(2) The President of the Office may allow other methods of paying fees than those set out in paragraph 1.

Article 6 – deleted

Article 7

Particulars concerning payments

(1) Every payment must indicate the name of the person making the payment and must contain the necessary particulars to enable the Office to establish immediately the purpose of the payment.

(2) If the purpose of the payment cannot immediately be established, the Office shall require the person making the payment to notify it in writing of this purpose within such period as it may specify. If he does not comply with this request in due time the payment shall be considered not to have been made.

Article 8

Date to be considered as the date on which payment is made

(1) The date on which any payment shall be considered to have been made to the Office shall be as follows:

(a) in the cases referred to in Article 5, paragraph 1(a) and (b): the date on which the amount of the payment or of the transfer is actually entered in a bank account or a Giro account held by the Office;

(b) in the case referred to in Article 5, paragraph 1(c): the date of receipt of the cheque at the Office, provided that the cheque is met.

(2) Where the President of the Office allows, in accordance with the provisions of Article 5, paragraph 2, other methods of paying fees than those set out in Article 5, paragraph 1, he shall also lay down the date on which such payments shall be considered to have been made.

(3) Where, under the provisions of paragraphs 1 and 2, payment of a fee is not considered to have been made until after the expiry of the period in which it should have been made, it shall be considered that this period has been observed if evidence is provided to the Office that the person who made the payment

(a) fulfilled one of the following conditions in a Contracting State within the period within which the payment should have been made:

(i) he effected the payment through a banking establishment or a post office;

(ii) he duly gave an order to a banking establishment or a post office to transfer the amount of the payment;

(iii) he despatched at a post office a letter bearing the address of the Office and containing a cheque within the meaning of Article 5, paragraph 1(c), provided that the cheque is met, and

(b) paid a surcharge of 10% on the relevant fee or fees, but not exceeding EUR 150; no surcharge is payable if a condition according to sub-paragraph (a) has been fulfilled not later than ten days before the expiry of the period for payment.

(4) The Office may request the person who made the payment to produce evidence as to the date on which a condition according to paragraph 3(a) was fulfilled and, where required, pay the surcharge referred to in paragraph 3(b), within a period to be specified by it. If he fails to

(b) s plačilom ali prenosom na žiro račun Urada ali

(c) z izročitvijo ali pošiljanjem čekov, ki se izplačajo Uradu.

(2) Predsednik Urada lahko dovoli druge načine plačevanja pristojbin, kot so navedeni v prvem odstavku.

6. člen – črtan

7. člen

Podatki o plačilu

(1) Pri vsakem plačilu morajo biti navedeni ime plačnika in podatki, ki omogočajo Uradu, da takoj ugotovi namen plačila.

(2) Če namena plačila ni mogoče takoj ugotoviti, Urad od plačnika zahteva, da ga o tem namenu pisno obvesti v roku, ki ga določi. Če plačnik zahteve ne izpolni pravočasno, se šteje, da plačilo ni bilo opravljeno.

8. člen

Datum, ki se šteje za datum plačila

(1) Kot datum plačila Uradu se šteje:

(a) v primerih iz pododstavkov (a) in (b) prvega odstavka 5. člena datum, na katerega je znesek plačila ali prenosa dejansko prispel na bančni ali žiro račun Urada;

(b) v primeru iz pododstavka (c) prvega odstavka 5. člena datum, ko Urad prejme ček, ki je vnovčljiv.

(2) Če predsednik Urada v skladu z drugim odstavkom 5. člena dovoli druge načine plačevanja pristojbin, kot so tisti iz prvega odstavka, določi tudi datum, ki se šteje za datum plačila.

(3) Če se plačilo pristojbine po določbah prvega in drugega odstavka šteje za opravljeno šele po poteku roka, v katerem bi moralo biti opravljeno, se šteje, da je bil ta rok upoštevan, če se Uradu predloži dokaz, da je plačnik

(a) v državi pogodbenici v roku, v katerem bi moralo biti plačilo opravljeno, izpolnil enega od naslednjih pogojev:

(i) da je opravil plačilo prek bančne ustanove ali pošte;

(ii) da je dal bančni ustanovi ali pošti pravilen nalog za prenos zneska plačila;

(iii) da je na pošti oddal pismo z vnovčljivim čekom v smislu pododstavka (d) prvega odstavka 5. člena, naslovljeno na Urad, in

(b) plačal dodatno pristojbino v znesku 10% zadevne pristojbine ali pristojbin, vendar največ 150 EUR; dodatna pristojbina se ne plača, če je bil eden od pogojev po pododstavku (a) izpolnjen vsaj deset dni pred potekom roka za plačilo.

(4) Urad lahko zahteva od plačnika, da predloži dokaz o datumu, na katerega je bil eden od pogojev iz pododstavka (a) tretjega odstavka izpolnjen, in kadar se to zahteva, plača dodatno pristojbino iz pododstavka (b) tretjega odstavka v roku, ki ga določi. Če te zahteve ne izpolni oziroma

comply with this request or if the evidence is insufficient, or if the required surcharge is not paid in due time, the period for payment shall be considered not to have been observed.

Article 9

Insufficiency of the amount paid

(1) A time limit for payment shall in principle be deemed to have been observed only if the full amount of the fee has been paid in due time. If the fee is not paid in full, the amount which has been paid shall be refunded after the period for payment has expired. The Office may, however, in so far as this is possible within the time remaining before the end of the period, give the person making the payment the opportunity to pay the amount lacking. It may also, where this is considered justified, overlook any small amounts lacking without prejudice to the rights of the person making the payment.

(2) Where the request for grant of a European patent designates more than one Contracting State in accordance with Article 79, paragraph 1, of the Convention, and the amount paid is insufficient to cover all the designation fees, the amount paid shall be applied according to the specifications made by the applicant at the time of payment. If the applicant makes no such specifications at the time of payment, these fees shall be deemed to be paid only for as many designations as are covered by the amount paid and in the order in which the Contracting States are designated in the request.

Article 10

Refund of the search fee

(1) The search fee paid for a European or supplementary European search shall be refunded fully or in part if the European search report is based on an earlier search report already prepared by the Office on an application whose priority is claimed for the European patent application or which is the earlier application within the meaning of Article 76 of the Convention or the original application within the meaning of Rule 15 of the Convention.

(2) The amount of any refund allowed under paragraph 1 shall be 50 or 100% of the search fee, depending upon the extent to which the Office benefits from the earlier search report.

(3) The search fee shall be fully refunded if the European patent application is withdrawn or refused or deemed to be withdrawn at a time when the Office has not yet begun to draw up the European search report.

Article 10a

Refund of the fee for a technical opinion

An amount of 75% of the fee for a technical opinion under Article 25 of the Convention shall be refunded if the request for a technical opinion is withdrawn at a time when the Office has not yet begun to draw up the technical opinion.

Article 10b

Refund of examination fee

The examination fee provided for in Article 94, paragraph 2, of the Convention shall be refunded:

(a) in full if the European patent application is withdrawn, refused or deemed to be withdrawn before the Examining Divisions have assumed responsibility;

(b) at a rate of 75% if the European patent application is withdrawn, refused or deemed to be withdrawn after the Examining Divisions have assumed responsibility but before substantive examination has begun.

je dokaz nezadosten ali če dodatna pristojbina ni pravočasno plačana, se šteje, da rok za plačilo ni bil upoštevan.

9. člen

Nezadostno plačilo pristojbine

(1) Načeloma se šteje, da je bil rok za plačilo upoštevan le, če je bil pravočasno plačan celoten znesek pristojbine. Če pristojbina ni v celoti plačana, se plačani znesek vrne po poteku roka za plačilo. Vendar pa lahko Urad plačniku omogoči, da plača manjkajoči znesek, če je za to še dovolj časa pred potekom roka. Poleg tega lahko, kadar se to izkaže za upravičeno, spregleda manjše manjkajoče zneske brez škode za pravice plačnika.

(2) Kadar je v skladu s prvim odstavkom 79. člena konvencije v zahtevi za podelitev evropskega patenta imenovana več kot ena država pogodbenica in plačani znesek ne zadošča za pokritje vseh pristojbin za imenovanje, se plačani znesek uporabi v skladu z navodili, ki jih je dal prijavitelj ob plačilu. Če prijavitelj ob plačilu ni dal nobenih navodil, se šteje, da so te pristojbine plačane le za toliko imenovanj, kot jih pokrije plačani znesek, in po vrstnem redu, po katerem so države pogodbenice imenovane v zahtevi.

10. člen

Vračilo pristojbine za poizvedbo

(1) Pristojbina za poizvedbo, plačana za evropsko ali dopolnilno evropsko poizvedbo, se vrne v celoti ali delno, če evropsko poročilo o poizvedbi temelji na zgodnejšem poročilu o poizvedbi, ki ga je Urad že pripravil za prijavo, katere prednost se zahteva za evropsko patentno prijavo ali ki je zgodnejša prijava v smislu 76. člena konvencije oziroma prvotna prijava v smislu 15. pravila konvencije.

(2) Znesek vračila, ki je dovoljeno po prvem odstavku, je 50 ali 100% pristojbine za poizvedbo, odvisno od koristi, ki jo ima Urad od prejšnjega poročila o poizvedbi.

(3) Pristojbina za poizvedbo se vrne v celoti, če je evropska patentna prijava umaknjena ali zavrnjena ali se šteje za umaknjeno v času, ko Urad še ni začel sestavljati evropskega poročila o poizvedbi.

10.a člen

Vračilo pristojbine za strokovno mnenje

75% pristojbine za strokovno mnenje po 25. členu konvencije se vrne, če je bila zahteva za strokovno mnenje umaknjena, ko ga Urad še ni začel sestavljati.

10.b člen

Vračilo pristojbine za preizkus

Pristojbina za preizkus po drugem odstavku 94. člena konvencije se vrne:

(a) v celoti, če je bila evropska patentna prijava umaknjena, zavrnjena ali se je štela za umaknjeno, preden so jo oddelki za preizkuse prejeli v obravnavo;

(b) v 75-odstotnem znesku, če je bila evropska patentna prijava umaknjena, zavrnjena ali se je štela za umaknjeno, potem ko so jo oddelki za preizkuse prejeli v obravnavo, vendar se popolni preizkus še ni začel.

Article 10c**Refund of insignificant amounts**

Where too large a sum is paid to cover a fee, the excess shall not be refunded if the amount is insignificant and the party concerned has not expressly requested a refund. The President of the Office shall determine what constitutes an insignificant amount.

Article 10d**Refund of fee for international preliminary examination**

If the applicant, during international preliminary examination, has not asked for a detailed preliminary examination or has not filed any amendments under Article 19 or 34(2) PCT or any other arguments, two thirds of the fee paid for international preliminary examination shall be refunded. The details of the refund shall be determined by the President of the Office.

Article 11**Decisions fixing costs which are subject to appeal**

In accordance with Article 106, paragraph 5, of the Convention, decisions fixing the amount of costs of opposition proceedings may be appealed if the amount is in excess of the fee for appeal.

Article 12**Reduction of fees**

(1) The reduction laid down in Rule 6, paragraph 3, of the Convention shall be 20% of the filing fee, examination fee, opposition fee and fee for appeal.

(2) The reduction laid down in Rule 107, paragraph 2, of the Convention shall be 50% of the examination fee. The reduction shall not be granted if the Office as an International Preliminary Examining Authority has refunded the fee paid for preliminary examination under Article 10d.

Article 13**Notification**

The President of the European Patent Office shall forward a certified copy of these Rules to all the signatory States to the Convention and to the States which accede thereto.

Article 14**Entry into force**

These Rules shall enter into force on 20 October 1977.

DONE at Munich, 20 October 1977.

3. člen

Za izvajanje pravilnika skrbi Ministrstvo za gospodarstvo – Urad Republike Slovenije za intelektualno lastnino.

4. člen

Ta uredba začne veljati naslednji dan po objavi v Uradnem listu Republike Slovenije – Mednarodne pogodbe.

Št. 908-08/2001-9

Ljubljana, dne 5. junija 2003

EVA 2003-1811-0029

10.c člen**Vračilo malenkostnih zneskov**

Če je za pokritje pristojbine plačan prevelik znesek, se presežek ne vrača, če gre za malenkosten znesek in stran-ka ni izrecno zahtevala vračila. Predsednik Urada določi, kaj se šteje za malenkosten znesek.

10.d člen**Vračilo pristojbine za mednarodni predhodni preizkus**

Če prijavitelj med mednarodnim predhodnim preizkusom ni zahteval podrobnega predhodnega preizkusa ali ni vložil sprememb po 19. členu PCT ali drugem odstavku 34. člena PCT ali kakih drugih argumentov, se vrne dve tretjini pristojbine, plačane za mednarodni predhodni preizkus. Podrobnosti vračila določi predsednik Urada.

11. člen**Odločitve o stroških, zoper katere je možna pritožba**

V skladu s petim odstavkom 106. člena konvencije se je zoper odločitve o stroških postopka ugovora mogoče pritožiti, če znesek presega višino pristojbine za pritožbo.

12. člen**Znižanje pristojbin**

(1) Znižanje, predvideno v tretjem odstavku 6. pravila konvencije, znaša 20% prijavne pristojbine, pristojbine za preizkus, pristojbine za ugovor in pristojbine za pritožbo.

(2) Znižanje, predvideno v drugem odstavku 107. pravila konvencije, znaša 50% pristojbine za preizkus. Znižanje se ne odobri, če je Urad kot organ za mednarodni predhodni preizkus vrnil pristojbino, plačano za predhodni preizkus po 10.d členu.

13. člen**Uradno obveščanje**

Predsednik Evropskega patentnega urada pošlje overjeno kopijo tega pravilnika državam podpisnicam konvencije in državam, ki k njemu pristopijo.

14. člen**Začetek veljavnosti**

Ta pravilnik začne veljati 20. oktobra 1977.

Sestavljeno v Münchnu 20. oktobra 1977.

Vlada Republike Slovenije

mag. Anton Rop l. r.
Predsednik

- Obvestilo o začetku veljavnosti mednarodne pogodbe

O B V E S T I L O

o začetku veljavnosti mednarodne pogodbe

Dne 6. julija 2003 je začel veljati Sporazum med Vlado Republike Slovenije in Vlado Italijanske republike o vzajemnem priznavanju vozniških dovoljenj pri njihovi zamenjavi, sklenjen z izmenjavo not z dne 18. novembra 2002 in 15. januarja 2003 in objavljen v Uradnem listu Republike Slovenije – Mednarodne pogodbe, št. 6/03 (Uradni list Republike Slovenije, št. 26/03).

Ministrstvo za zunanje zadeve
Republike Slovenije

VSEBINA

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| 43. | Pravilnik o ratifikaciji Pravilnika o izvajanju Konvencije o podeljevanju evropskih patentov | 989 |
| 44. | Uredba o ratifikaciji Pravilnika o pristojbinah z dne 20. oktobra 1977, kot je bil zadnjič spremenjen z odločitvijo upravnega sveta Evropske patentne organizacije z dne 13. decembra 2001 | 1038 |
| – | Obvestilo o začetku veljavnosti mednarodne pogodbe | 1044 |

