

**Supplement to the 2024 Edition of
Visser's Annotated European Patent Convention**

updated until 31.10.2024

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Introduction

This supplement is primarily for EQE 2025 candidates, taking into account the legal status cut-off date of 31.10.2024 (see OJ 2024 A25). This supplement provides an overview of the significant legal changes since the revision date of the 2024 print edition, i.e., between 01.03.2024 and 31.10.2024. The supplement also contains some corrections of errors noticed in the 2024 print edition.

The online edition of Visser available on the Kluwer IP Law website - www.kluweriplaw.com - is regularly updated and includes full commentary on these updates as well as amendments in view of recent Technical Board of Appeal decisions and new information from the EPO website.

The next print edition of Visser will be published in Spring 2025. This will include commentary on the 2025 edition of the Guidelines for Examination in the EPO.

Updates

General - fax

Use of fax was abolished as of 01.07.2024. Remove mention of fax in Art.80:4, Art.99(1):2.2 and 3, R.2, R.6(2):1, R.36(1):2.2.1, R.40(1):1.3, R.49(2):1.2, R.50:2, R.53(1):2, R.56:1, R.67(2):1, R.71(3):3.1, R.101(1):2, R.134(1):3.1 and 3.2, R.134(2):2, R.157(1):1 and 3 as well as Rfees5(2):2.1.

Notation

On page viii, update the edition of NatLaw to 23rd.

Art.55(1)

On page 110, Art.55(1):4, replace OJ 2023 A79 by OJ 2024 A53.

Art.79(2)

On page 181, Art.79(2):2.1. 2nd §, replace OJ 2023 sp2 p.24 by OJ 2024 sp4 p.27.

Art.94(1)

On page 238, Art.94(1):4.2, add to the table CL (OJ 2024 A56).

Art.134a(1)

On page 386, Art.134a(1):3, 3rd §, replace “OJ 2024 sp1 p.139” by OJ 2024 A35.

Art. 153(7)

On page 414, Art.153(7):1, replace OJ 2023 A28 by OJ 2024 A33.

On page 415, Art.153(7):3, replace OJ 2023 A28 by OJ 2024 A33.

Art.169

On page 421, Art.169:1.1, for Romania, replace UP* with UP (the date of coming into effect of UPCA for Romania was 01.09.2024, OJ 2024 A61).

On page 423, Art.169:3, replace OJ 2023 sp2 p.24 with OJ 2024 sp4 p.27.

R.2(1)

On page 439, R.2(1):8, 5th §, replace “Dec. Pres. OJ 2023 A46 and A47” with Dec. Pres. OJ 2024 A54 and A55.

R.30

On page 491, R.30:1, 2nd §, replace “Dec. Pres. OJ 2023 A46” with Dec. Pres. OJ 2024 A54.

R.54

On page 557, R.54:1, 1st §, add OJ 2024 sp4 as the most recent publication of the Schedule of fees of the EPO.

R.65

On page 597, R.65:1, 3rd §, add the sentence “As of 01.10.2024, paper copies of patent documents are no longer sent by mail, but will need to be obtained from Espacenet (OJ 2024 A68).”

R.134

On page 723, second paragraph, add “for the closing days in 2025, see OJ 2024 A91”.

R.147

On page 772, R.147(2):1, replace “Dec. Pres OJ 2007 se3 p.121” with OJ 2024 A31.
On page 773, R.147(4):1, delete the reference to Dec. Pres OJ 2007 se3 p.121.

R.152

On page 779, R.152(1):1, subnote 3: note that as of 1.11.2024, legal practitioners will no longer be required to always file an authorisation.

Rfees2(1)

On page 846, replace note 1 with:

The EPO regularly publishes a ‘Guidance for the payment of fees, expenses and prices’ in the OJ (most recently in OJ 2024 A37). The document gives information concerning the fee levels, payment methods, refunds, and reductions for both European and international applications. Current fee rates are included in the interactive ‘Schedule of fees’ on the EPO website. The current fee rates (as of 01.04.2024) were published in OJ 2024 sp4. This publication includes the current text of the Rfees and tables with the amounts of the fees of Rfees2, the administrative fees and the expenses for services under Rfees3, as well as certain miscellaneous fees (including validation fees), and tables with the amounts of the fees for unitary patents and the amounts of the PCT fees fixed by WIPO that are payable to the EPO as receiving Office or IPEA. Additional information about the payment of fees for unitary patents can be found in OJ 2023 sp3 p.26.

On page 849, note 6.1, replace OJ 2023 A28 with OJ 2024 A33.

On page 850, note 9.1, replace OJ 2023 A28 with OJ 2024 A33.

On page 853, note 17, replace OJ 2023 A67 with OJ 2024 A69.

Rfees5(1)

On page 857, Rfees(5)(1), insert as penultimate paragraph: “If a renewal fee is paid by bank transfer without using CFP and the fee is not due, the fee will be directly repaid to the bank account (OJ 2024 A82 §6; effective 07.10.2024).”

Rfees5(2)

On page 857, Rfees5(2):2, first paragraph, “The version valid as of 01.04.2024 was published in OJ 2024 sp2, p.9, *with an amendment effective 07.10.2024 published in OJ 2024 A81 (Notice in OJ 2024 A82)*”.

On page 859, Rfees5(2):2.1.1, at the end, add: “If a renewal fee that is not due is paid using a debit order submitted by means other than CFP (e.g. using Online Filing or Online Filing 2.0), the fee is automatically repaid directly to the deposit account used to make the payment (ADA 9.6 as amended by OJ 2024 A81; Not. EPO OJ 2024 A82; effective 07.10.2024).”

Rfees9

On page 868, Rfees(9):2 Refund procedure, third paragraph, change into:

“If a renewal fee for a European patent application that is not due, a surcharge under R.51(2) that is not due, or a fee for a unitary patent that is not due is paid by debit order, and the debit order is submitted other than via Central Fee Payment, the amount will be repaid to the deposit account used for the payment (ADA.9.6 OJ 2024 A81; effective 07.10.2024) If the not-due fee is paid by bank transfer, it is repaid to the bank account used for making the payment (OJ 2024 A82 §6).”

Rfees11

On page 71, Rfees11(2), replace “My Files service” with MyEPO Portfolio. The My Files service is no longer available. See OJ 2024 A43 and 44.

Ante UPR

On page 876, Ante UPR:1, 2nd §, replace “As of 01.06.2023, seventeen participating member states had ratified the UPCA” with “As of 01.08.2024, eighteen participating member states had ratified the UPCA My Files service” and add Romania in the list of states.

UPR.5

On page 883, UPR.5(1):1, add a note at the end: “As of 10.07.2024, due to the EU's 14th package of sanctions against Russia, the proceedings for the registration of unitary effect have been stayed ex officio if at least one requester is a Russian national or a natural person residing in Russia, or a legal person, entity or body established in Russia. An exception applies for nationals and residents of an EU member state, of an EEA country member or of Switzerland. OJ 2024 A70”

RfeesUPP.6

On page 912, under Art.6 RfeesUPP, add a new note:

If a fee for a unitary patent is paid which is not due (which can happen if CFP is not used; see Rfees5:1), the EPO will automatically repay the amount to the deposit account used for making the payment (ADA 9.6 as amended by OJ 2024 A81) or to the bank account used for paying (OJ 2024 A82 §6,7).

Errata in the notes

Art.94(1)

On page 238, Art.94(1):4.2, in the table, replace OJ 2019 106 with OJ 2022 115 for CN, JP, KR and US.

R.49(2):3

On page 537, R.49(2):3, in the quote of Art.4(1) Dec. Prs. OJ 2022 A113, replace “and R.57(j)” with “and R.57(i)”.