

Learning path for patent administrators

Filing an international application: Entry – EPAC

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Introduction

This publication, "Filing an international application, Entry – EPAC", is part of the "Learning path for patent administrators" series is edited and published by the European Patent Academy. The series is intended for patent administrators who are taking part in training and certifications organised by the European Patent Office (EPO). It is also freely available to the public for independent learning.

Topics covered include: general aspects of the patent system; the European patent system and the European patent granting procedure; the International Patent System (PCT) and the PCT procedure; European and international publications; filing a European patent application and filing an international application; the formalities during the European and during the international search; the formalities during the European examination and during the international preliminary examination; the formalities during the appeal procedure after refusal (EPC), during the opposition procedure (EPC); national validation (EPC); entry into national/regional phases and entry into the European phase (PCT).

Each chapter focuses on one topic at entry, intermediate or advanced level, as appropriate. The series will be revised annually to ensure it remains up to date.

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All references to natural persons are to be understood as applying to all genders.

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1. Learning objectives

Participants in this course will learn about:

- the RO's competence
- RO related fees and reductions
- different ways of filing an IA
- checks carried out by the RO
- representation
- designated states
- languages and translations
- priority claims and documents
- withdrawals

2. Abbreviations

DO	designated Office
EO	elected Office
EPO	European Patent Office
IA	international application
IB	International Bureau of WIPO
IFD	international filing date
IPEA	International Preliminary Examining Authority
IPER	international preliminary examination report
IPRP1	international preliminary report on patentability, converted WO/ISA
IPRP2	international preliminary report on patentability, converted IPER
ISA	International Searching Authority
ISR	international search report
PCT	Patent Cooperation Treaty
RO	receiving Office
SEQL	sequence listing
SISA	authority specified for the supplementary international search
SISR	supplementary international search report
WIPO	World Intellectual Property Organization
WO/ISA	written opinion of the International Searching Authority

3. The competent RO

IAs may be filed by applicants who are nationals or residents of PCT contracting states, with a national or regional Office acting as RO. Where the applicant's nationality or residence is not that of a PCT contracting state, no IFD can be accorded.

The IB also acts as RO. In addition, some PCT contracting states do not operate an RO, but delegate their RO activities to the IB.

The IB also takes over from ROs that are not competent to receive an IA for the reasons mentioned above or if the IA is filed in a language not accepted by the RO.

The date of receipt of the IA at the non-competent RO is considered as the IFD. The non-competent RO will inform the applicant accordingly by issuing Form [PCT/RO/151](#).

Legal references:

[Art. 11 PCT](#)

[R. 19.4 PCT](#)

4. Competence of the EPO as RO (RO/EP)

The EPO is competent as RO under the following conditions.

- At least one applicant's nationality and/or residence must be that of a PCT contracting state that is also an EPC member state.
- The description and claims must be in one of the official languages of the EPO, i.e. German (DE), English (EN) or French (FR).

Legal references:

[Art. 11 PCT](#)

[R. 19.4 PCT](#)

5. Ways of filing

In general, there are four ways of filing.

1. Electronically, e.g. through [WIPO's ePCT service](#)
2. By fax machine
3. By surface mail
4. By hand-delivering the IA to the RO

The way in which an IA can be filed depends on the chosen RO. For more detailed information, please consult the [alphabetical list of ROs in the PCT Applicant's Guide](#).

Legal references:

[Art. 10 PCT](#)

[R. 89bis, 89ter PCT](#)

6. Ways of filing with RO/EP

A document making up the IA, and any later document or correspondence relating thereto, may be transmitted to RO/EP in one of the following ways:

- Electronically: [Online Filing or Web-Form Filing](#)
- By fax machine
 - A confirmation copy of application documents is mandatory
- By surface mail to EPO branches Berlin, Munich or The Hague
- By hand: using automated mailboxes in Munich or Berlin

Important: for online filings, applicants should authorise the use of the so-called pre-conversion archive when completing Form [PCT/RO/101](#).

If an IA is filed in any other way, e.g. by email or any other technical means of communication, it is considered as not having been received and RO/EP will notify the applicant using Form [PCT/RO/142](#).

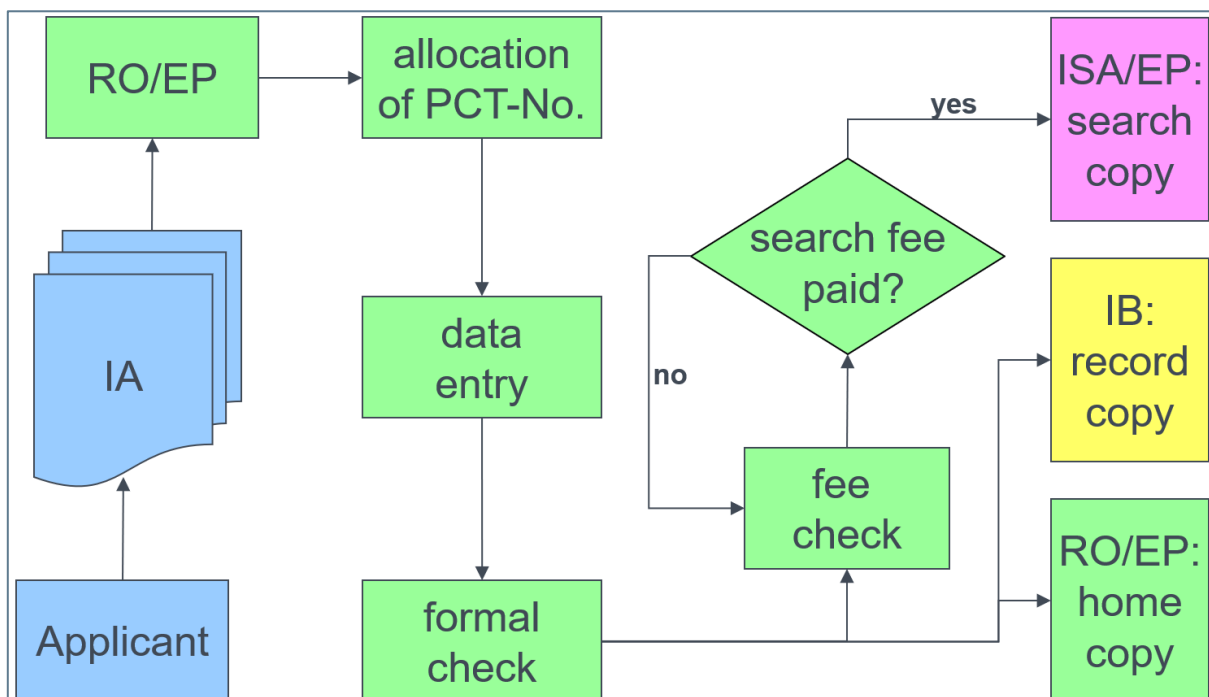
Legal references:

[Art. 10 PCT](#)

[Art. 75\(2\) EPC](#)

[R. 157\(3\) EPC](#)

7. Dossier flow: RO/EP



8. Fees due on filing an IA

Fee	EUR	Beneficiary
Filing fee ¹	1 235.00	IB
Page fee per sheet in excess of 30	14.00	IB
Transmittal fee ¹	140.00	RO
Restoration fee	685.00	RO
Certified copy	110.00	RO
International search fee ^{1,2}	1 775.00	ISA

- ¹ Fees that are always due
 - The other fees in the table are only due in specific situations
- ² Fee reduction of 75% possible for applicants from countries with [low-income...or lower-middle-income economies](#), subject to conditions.

(Status: July 2022)

Legal references:

[Art. 14\(3\) PCT](#)

[R. 14, 15, 16, 17, 26bis PCT](#)

9. Possible filing fee reductions

Reduction	EUR
Filing fee reduction for filing in XML format	279.00
Filing fee reduction for filing in PDF format	186.00
Filing fee reduction for filing via Webform filing	93.00

Further reductions

- For applicants from [certain states](#):
 - 90% filing fee reduction
 - subject to [certain conditions](#)

Legal references:

[R. 15 PCT](#)

10. Fee payment methods

In general, there are five ways of paying fees.

- Electronically, e.g. [WIPO Pay](#)

- By bank transfer
- By credit card
- By deposit account
- By cash

The required methods of fee payment differ from RO to RO. For more detailed information, please consult the [alphabetical list of ROs in the PCT Applicant's Guide](#).

Legal references:

[Art. 14\(3\) PCT](#)

[R. 16bis, 27.1 PCT](#)

11. Fee payment methods for RO/EP

- Bank transfer
- Credit card
- Automatic debiting of a deposit account
- [Online fee payment through EPO online services](#)

Legal references:

[OJ EPO 2021, A60](#)

12. RO checks

The task of the RO is to:

- ensure the IA meets the PCT requirements
- ensure the IA is suitable for international publication
- notify the applicant in case of
 - missing parts or elements
 - formal defects
 - obvious mistakes

Legal references:

[R. 20, 26, 91 PCT](#)

13. PCT application form (Form PCT/RO/101)

Use of the PCT application form (Form [PCT/RO/101](#)) is mandatory.

The application form may be in a language different from the rest of the IA. If it was filed in a language not accepted by the RO, Form [PCT/RO/106](#) with Annex A will be issued. You can find an example of an [application form](#) that has been completed correctly in multiple languages on the WIPO website.

Applicants can also consult the "Notes to the application form" appended to the sample application forms.

Legal references:

Art. 4, 14 PCT

R. 4, 11 PCT

14. Application form: RO checks

- Applicant's file reference, if applicable. It should not exceed 25 characters.
- The title of the invention must be indicated twice: in Box No. I of the application and on top of the first page of the description. Both indications must be identical.
- Applicant's name, address, nationality and residence
- Inventor's name and address
- Indication of different applicants or inventors for different designated states
- Indications in case of deceased applicants or inventors
- Agent, common representative and address for correspondence
- Designation of states
- Exclusion of certain states from designation, if priority claim from excluded state
- Indications of priority claim(s)
- The competent International Searching Authority
- Request for the use of earlier search and classification results
- Declarations
- Checklist and indications made by the applicant
- Informal comments on earlier search results: PCT Direct (only RO/EP)
- Signature(s) by
 - applicant(s)
 - agent or common representative
 - required authorisation to sign attached?

Legal references:

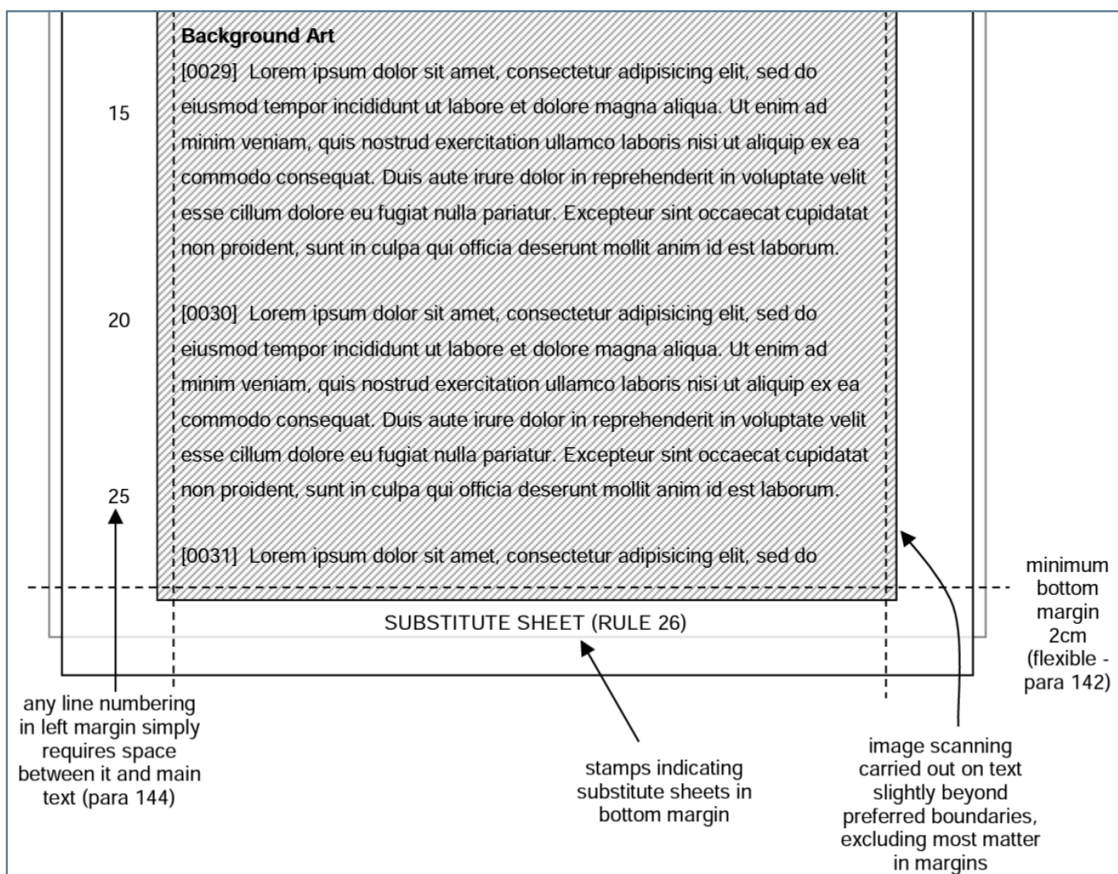
Art. 4, 14 PCT

R. 4, 11 PCT

15. Physical requirements: RO checks

The RO also checks compliance with the [physical requirements of the specification](#), e.g. size of characters, page margins, drawing quality etc.

In case the RO finds a defect on the application form or in the specification, it will issue Form [PCT/RO/106](#), inviting the applicant to correct the defect.



Legal references:

Art. 3, 4, 5, 6, 7, 14 PCT

R. 4, 5, 6, 8, 11, 20, 26 PCT

16. Indications concerning the applicant

In Box No. II of the application form, the following must be indicated.

- Applicant's name:
 - if a natural person: surname first, capitalised. E.g. SMITH, John
 - no titles, no academic degrees
- Applicant's address:
 - PO Box
 - street name, unit or house number
 - city
 - country in full or [two-letter country code](#)
- Applicant's nationality and residence:
 - country in full or [two-letter country code](#)

Legal references:

Art. 11, 14.1 PCT

R. 4 PCT

17. Indications concerning the inventor

- Inventors can only be natural persons.
- In Box No. II and/or No. III of the application form, the following must be indicated:
 - at least one inventor's name
 - surname first, capitalised. E.g. SMITH, John
 - no titles, no academic degrees
 - fields for nationality and residence may be left empty
 - inventor's address
 - unless indicated as "deceased"

Legal references:

Art. 11, 14.1 PCT

R. 4 PCT

18. Representation

Depending on the competent RO, applicants might have to appoint a representative or agent. The [alphabetical list of ROs in the PCT Applicant's Guide](#) contains information on:

- whether an agent has to be appointed
- how to appoint an agent
- who may act as agent before a certain RO:
 - a natural person, or
 - a legal entity, or
 - a firm or partnership that is not a legal entity
- whether powers of attorney are necessary

Legal references:

Art. 27(7) PCT

R. 90 PCT

19. Address for correspondence

The applicant may indicate an address for correspondence if

- no agent was appointed, and/or
- the applicant does not need representation

The address for correspondence can be any address, worldwide.

Legal references:

Art. 27(7) PCT

R. 90 PCT

20. Common representative

- In case of multiple applicants not represented by an agent, one applicant entitled to file the IA with the competent RO may be appointed as common representative on behalf of all applicants. If no common representative is appointed, the first-named applicant who has a right to file an IA with the RO concerned is automatically considered to be the common representative.
- Only one common representative may be appointed.
- The RO will correspond only with the common representative.
- For RO/EP, the common representative must be resident in an EPC contracting state.

Legal references:

Art. 27(7) PCT

R. 90 PCT

21. Which agents can act before RO/EP?

- Representation before RO/EP is regulated by the EPC.
- Applicants may appoint a natural person as agent for representation before RO/EP. This may be either:
 - a professional representative listed by the EPO and published in the Official Journal
- or
- a legal practitioner qualified to practise patent matters in EPC contracting state and having their place of business in that state
- or
- an association of representatives, i.e. a group of professional representatives acting under one name and registered by the legal department of the EPO

Indicating the registration number on the application form is not mandatory.

- Until all requirements relating to the agent have been met, RO/EP will correspond with the first applicant entitled to file the IA.

Legal references:

Art. 134(2) EPC

R. 152(11) EPC

Art. 27(7) PCT

R. 90 PCT

22. Designations DE, JP and KR

- In Box No. V, applicants may exclude designations DE, JP and KR.
 - This is applicable only in case the IA claims a DE, JP or KR priority.
- This is to avoid the priority application becoming invalid when the IA enters the national phase in either
 - Germany
 - Japan
 - the Republic of Korea

Legal references:

R. 4.9, 26 PCT

23. Declarations

- Applicants might have to file declarations in order to comply with national law in designated states. Such declarations concern:
 - the identity of the inventor
 - entitlement to apply for a patent
 - entitlement to claim priority
 - inventorship (US only)
 - non-prejudicial disclosures or exceptions to lack of novelty
- The time limit for filing these declarations is within 16 months from priority. Filing is considered to be on time in case the declarations reach the IB before completion of the technical preparations for international publication.
- If declarations are filed by completing Box No. VIII on the application form, or separately on the same day, they will be counted as sheets in the IA and possibly be subjected to a page fee.
- If filed separately at a later time, the RO will merely transmit them to the IB. The IB may also invite applicants to submit declarations.
- Please refer to the [PCT Applicant's Guide](#) for more information.

Legal references:

R. 4.1, 4.17, 26ter PCT

24. Languages and translations

- The language in which an IA can be filed depends on the chosen RO. For more detailed information, please consult the [alphabetical list of ROs in the PCT Applicant's Guide](#).
- Where an IA is filed in a language accepted by the RO, but not in a [language of publication](#), the applicant has to file a translation into one of those languages within 14 months from priority.
- Where an IA is filed in a language accepted by the RO, but not in a language in which the ISA carries out the international search, the applicant has to file a translation into a language accepted by the ISA within one month from the date of receipt of the IA by the RO.
- For RO/EP, the IA has to be filed in DE, EN or FR, which are also languages in which ISA/EP carries out the search. Translations are therefore not applicable.

Legal references:

R. 12, 19.4 PCT

25. Requirements for according an IFD

- In order for the RO to accord an IFD to the IA, the PCT prescribes the presence of all of the following.
 - An indication that what was filed was intended as an IA
 - explicit on application form [PCT/RO/101](#)
 - The designation of at least one PCT state

- The applicant's name
 - A description
 - At least one claim
- For according an IFD, it is not necessary that the IA contain drawings and/or an abstract at the time of filing.
 - The RO will notify the applicant of the IA number and the IFD promptly after they have been accorded (Form [PCT/RO/105](#)).

Legal references:

[R. 19](#), [20 PCT](#)

26. Defects not affecting the IFD

- RO not competent
- Applicant's nationality/residence indicated incorrectly
- Application form, text of the abstract or text matter in drawings in a non-admissible language
- Incomplete, erroneous or missing priority claim or declaration(s)
- Fees (partly) not paid
- Application form not signed
- Formal defects and obvious mistakes
- Missing abstract or title of invention

Legal references:

[R. 20 PCT](#)

27. Failure to pay prescribed fees

If all or part of the prescribed fees were not paid, the RO will invite the applicant to pay the missing amount, possibly together with a late payment fee, within a non-extendable time limit of one month from the date of the invitation (Form [PCT/RO/133](#)).

The amount of the late payment fee is:

- 50% of the total unpaid fees
 - with a minimum of an amount equal to the transmittal fee
 - with a maximum of 50% of the international filing fee

If the fees are not paid after the invitation:

- the IA is considered to be withdrawn
- Form [PCT/RO/117](#) is issued

Legal references:

Art. 14(3) PCT

R. 16bis, 27.1 PCT

28. Claiming priority

The applicant may claim a previous application as priority if:

- it was filed within a period of 12 months preceding the IFD
- they identify the priority application by indicating the country code, priority number and filing date
- for IAs filed with RO/EP: the priority date cannot be same as the IFD

If the last day of the priority period falls on a day that the RO is closed, the priority period is extended until the next opening day.

[Please click here for a list indicating the closing days of certain ROs.](#)

If the IA is filed after expiry of the priority period, but within two months of that date, the RO will invite the applicant to correct the priority date or apply for restoration of the right of priority by issuing a Form [PCT/RO/110](#).

Legal references:

Art. 8 PCT

R. 4.10, 26bis, 90bis.3 PCT

29. Priority documents

The priority document must be submitted to the IB within 16 months from the priority date, but before international publication. The applicant has several options to do this.

The applicant may file the priority document(s) directly with the RO, who will transmit them to the IB.

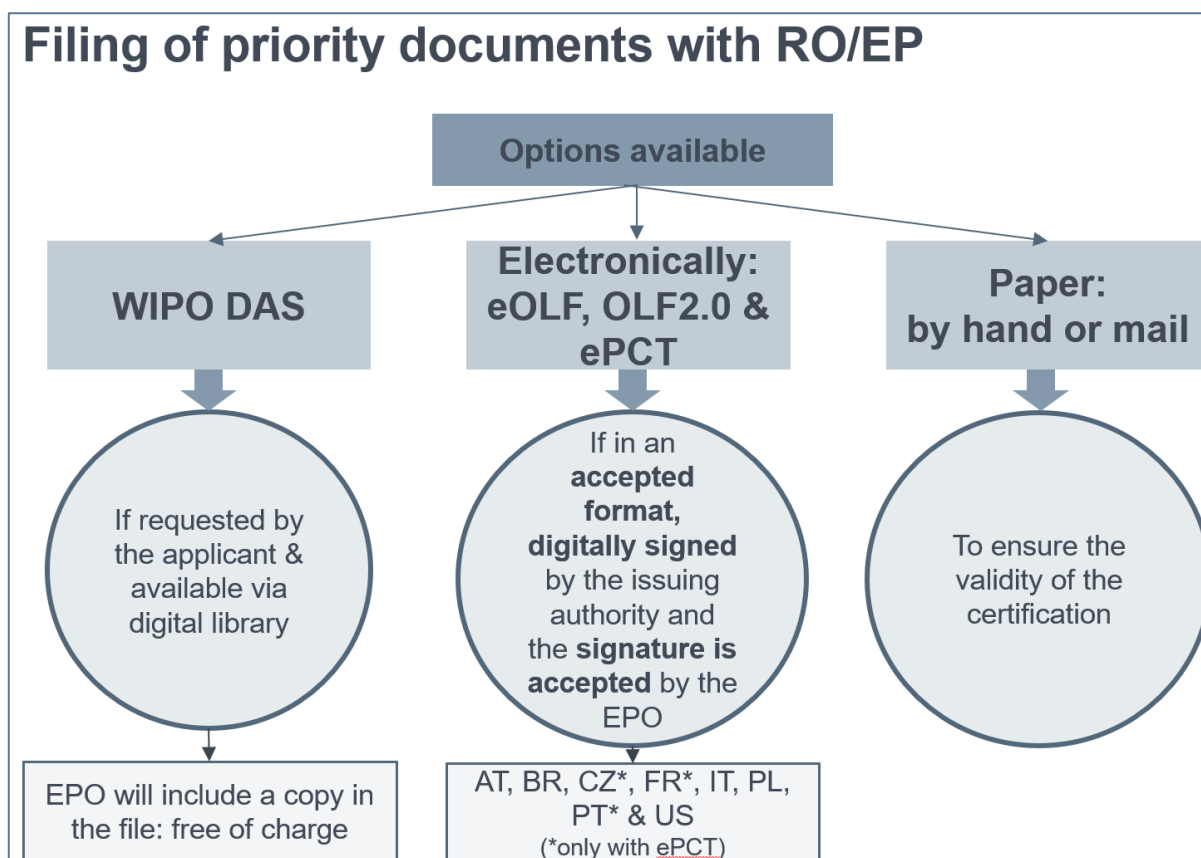
The applicant may also ask the IB, free of charge, to retrieve the priority document(s) via [WIPO Digital Access Service \(WIPO DAS\)](#), indicating the access code obtained when filing the priority application:

- on the application form, or
- in a special form issued by the RO (e.g. EPO [Form 1013](#)), or
- in a separate letter

The applicant may ask the RO on the application form to prepare the priority document(s) and transmit them to the IB.

- This may be subject to the payment of a fee.
- This only applies to priority applications filed with the office the RO belongs to.
- Example: RO/EP can only prepare and transmit priority documents:
 - for priority applications that are IAs filed with RO/EP
 - for priority applications that are EP direct applications

Filing of priority documents with RO/EP



Legal references:

R. 4.10, 26bis, 90bis.3 PCT

30. Changes to indications in the application

During the international phase, the applicant or RO may file a request to change data in the IA. Processing a request for the recording of a change is the IB's responsibility. The RO may receive and transmit requests to the IB. Form [PCT/RO/101](#) will remain unchanged.

Changes may concern, for example:

- the applicant: person, name, address, nationality or residence
- the inventor, agent, common representative: person, name or address
- addition, deletion and/or correction of the priority claim
- any issue following an invitation or notification by the RO

The IB will record and confirm the changes by issuing:

- Form [PCT/IB/306](#) for changes to the applicant, inventor and/or agent
- Form [PCT/IB/317](#) for the deletion of priority claims
- Form [PCT/IB/318](#) for the addition and/or correction of priority claims

The IB will transmit a copy of any form mentioned above to all parties involved.

Legal references:

R. 17.1, 26bis, 90.3, 90bis, 92bis.1 PCT

31. Withdrawals

At any time during the international phase, the applicant may withdraw the IA or designations of states. A withdrawal of all designations of states is considered a withdrawal of the IA. Applicants may file a notice of withdrawal with the RO or the IB.

Should the applicant wish to prevent international publication, it is advisable to file the notice of withdrawal with the IB directly, before completion of the technical preparations for international publication.

[Please click here to calculate the latest date for a withdrawal.](#)

The IB will inform all parties involved of the withdrawal by issuing Form [PCT/IB/307](#).

Legal references:

R. 90bis PCT

32. Beyond the course

You can explore what you have learned during this course in greater depth with the following further reading:

- [PCT Applicant's Guide, Chapter 5: Filing an international application](#)

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