

## Amendment of Rule 154 (1)

# Upcoming Substantial changes in the procedure to pay annual subscription for European Patent Attorneys

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For us as European Patent Attorneys, it is not the most exciting thing to look after the payment of our annual subscription and for many of us our employer or accounting persons are taking care of those payments. However, the **epi** as the central institution to look after our interests being probably the only current real pan-European profession relies on our annual subscription. The subscription constitutes by far the major income source to finance the bodies of **epi**'s self-regulation, the Secretariat in Munich and all other activities. It was already one of the principles enshrined in the Founding Regulations from the very beginning of our profession that each European Patent Attorney has to pay annually a fee in order to remain on the list of professional representatives acting before the EPO.

With its decision CA/D 6/18 of June 28, 2018 the Administrative Council of the European Patent Organization has decided an amendment of the wording of Rule 154(1) EPC which will trigger substantial changes in the procedure to pay the annual subscription for European Patent Attorneys from 2019 onwards. This amendment was proposed jointly by the Legal Division of the EPO and the **epi** and has as its main objective to streamline and simplify the procedure. Under the new wording of R. 154(1) EPC a European Patent Attorney can be deleted from the list of professional representatives if he/she has not paid, despite a reminder, the applicable annual subscription to the **epi** within 5 months from either January 1 of each year or, for those members who are only entered on the list during a year, within 5 months from the date of their entry on the list. As a consequence, the **epi** Council has adapted the Rules governing payment of the annual subscription (**epi** Collection of Decisions no. 5.1.1). According to the new version, which will also come into force on January 1, 2019 together with the new R. 154(1) EPC, an **epi** member is supposed to pay the annual subscription until May 31 of each year at the latest, i.e. within 5 months from January 1, which is 1 month earlier than so far. However, if he/she pays the subscription during the last 2 months of this period (i.e. within April and May), the amount due will be higher than if paid during the first 3 months. For 2018 the regular annual subscription amount was 190 EUR and the increased amount, if paid late 240 EUR. The amounts for 2019 will be announced in this journal and on the **epi** webpage after the **epi** Council will have decided on them at its meeting on November 10, 2018 in Helsinki upon a proposal from the Treasurer.

Those timelines are new and 1 month shorter for the majority of the members, who are already on the list at the beginning of the year. Every year there are hundreds of members of the Institute who have not paid their subscription and where the deletion procedure has to be initiated by the EPO Legal Division in autumn. Whenever the **epi** proposes a member to be deleted due to non-payment of the annual subscription, the EPO Legal Division sends out a communication according to Art. 113 EPC (right to be heard), and if no satisfactory response is received, a decision of deletion is issued offering the possibility to file an appeal within the usual 2 months period under Art. 108 EPC. Together with the voluntary invoice that the **epi** sends out every year and one informal reminder via email plus the additional formal reminder required by R. 154(1) EPC sent by post, a member normally receives at least 5 communications from either **epi** or the EPO before a deletion becomes effective. A payment of the increased annual subscription, if affected before any deletion decision becomes effective, will stop the deletion procedure. Once a deletion decision has become effective due to non-payment, re-entry can be requested at any later time and will be implemented if the non-paid annual subscription for that year is paid. It is clear that the applicable annual subscription has to be paid to the Institute also for the current year.

The new R. 154(1) EPC together with the adapted Rules governing payment of the annual subscription (CoD no. 5.1.1) will ensure that in the future, the whole process from sending the voluntary invoice until a possible deletion becomes effective, can be finished within the running year and is not drawn into the next year. The amended procedure also increases legal certainty because the possibility to start disciplinary proceedings against a non-payer by **epi** has been deleted from the disciplinary legislation because a much more effective sanction in the form of deletion from the list is available.

### What members should consider and change

Since the formal reminder must be sent by post, members are responsible to be reachable by the EPO and **epi**. Hence you should generally make sure that their contact address and ideally email address are up-to-date in the professional representative list administered by the EPO Legal Division (e.g. in case of moves or changes of

employers). Although the email address is a voluntary information, it is highly recommended for a proper and efficient communication between the Institute and its members (e.g. also if there are problems with your EPO smart card).

Additionally, members should decide on the way of payment for their annual subscription: the **epi** is offering beside usual bank transfer, payment by credit card, Paypal or automatic debiting from the running accounts at the EPO (for the latter, a direct debiting mandate signed by the account holder is necessary to be filed with the **epi**, available under <https://patentepi.com/en/the-institute/annual-subscription.html>).

If you have paid your annual subscription by automatic debiting from the running accounts at the EPO last year and there are no changes (e.g. account number, holder, address), there is no need to change anything because your annual subscription will be automatically paid

around the end of February (you just have to ensure that the running account has sufficient funds around that time). If you have a standing order with a bank or you make a manual transfer or pay online by using Paypal and credit card, please make sure the payment is effected at latest by March 31, 2019 in order to avoid the amount of the increased subscription fee.

If, for whatever reason, you are not longer interested in remaining on the list, please actively inform the EPO Legal Division of that intention. During the first 3 months of a year, no annual subscription will then be due and money already paid will be refunded.

As **epi** Treasurer, I expect that the new streamlined process following the amendment of R. 154(1) EPC will simplify the internal procedures within the **epi** and the EPO Legal Division, and will also help you to focus on the more exciting matters around patent filings, prosecution, opposition and litigations.