

6.1. European patent application

Under the EPC 1973, an application could be filed in an official EPO language (Art. 14(1) EPC 1973) or, by persons benefiting from the "language privilege", in an official language of a contracting state other than English, French or German (Art. 14(2) EPC 1973).

According to J 4/88 (OJ 1989, 483, see headnote), for the purposes of Art. 14(2) EPC 1973 and R. 6(3) EPC 1973 it was sufficient if the description and claims were filed in an official language of a contracting state other than English, French or German; it was not significant for this purpose that other parts of the European patent application were filed in one of the official languages of the EPO only (further to J 7/80, OJ 1981, 137 – see in this chapter III.F.1.). If the applicant availed himself of the option provided in Art. 14(2) EPC 1973 both the filing fee and the examination fee were reduced (R. 6(3) EPC 1973).

6.2. Request for examination

J 4/88 (OJ 1989, 483) (see in this chapter III.F.6.1.) deals with the reduction of both the filing fee and the examination fee.

In J 21/98 (OJ 2000, 406) the applicant, who had filed a request for examination in Italian within the time limit of Art. 94(2) EPC 1973 (see now R. 70(1) EPC), and simultaneously an English translation, had been refused the reduction in the examination fee. According to the Receiving Section, the written request for examination in Italian should have been filed together with the request for grant. However, according to the board, Art. 94(2) EPC 1973, in conjunction with Art. 75, Art. 92 and Art. 94(1) EPC 1973, was to be interpreted such that, within the grant procedure, the request for examination constituted an **autonomous step** quite separate from the (previous) step of filing the patent application, enabling the applicant to consider whether to continue the grant procedure in the light of the search report. Since the EPC 1973 gave the applicant the right to file the request for examination after the publication of the search report, it followed that the same right had to be owed to the applicant who wanted to avail himself of the option provided for in Art. 14(2) and (4) EPC 1973 (see also J 22/98, J 6/99, J 14/99 and J 15/99).

In J 36/03 the board held that the examination fee should be reduced if the request for examination was filed in an authorised non-official language, even in cases where the **application was transferred, before the examination fee was paid**, to an applicant who was not one of the persons referred to in Art. 14(2) EPC 1973.

J 4/18 concerned the application of the examination fee reduction (R. 6(3) – (7) EPC, Art. 14(1) RFees) to multiple applicants (see also in this chapter III.F.6.).