

## 2.4 Files arriving late

If the demand has been validly received by the EPO very late, the examiner will telephone the applicant and explain the situation. The applicant will then be asked whether he prefers to:

- discuss the application over the phone and receive a short time limit to file amendments (e.g. one to two weeks, set by the telephone minutes); or
- receive a WO-IPEA with a short time limit (e.g. one to two weeks); or
- receive a negative IPER without further interaction; or
- receive a WO-IPEA with a longer time limit, in which case the IPER will be issued late.

In the very exceptional case that the file is so late that even with a time limit of one to two weeks the IPER would be issued after 28 months, the applicant will be asked whether he still wishes a time limit to file amendments although the IPER will be late or prefers a timely but negative IPER without further interaction.

In the above-mentioned exceptional cases where after a telephone consultation the applicant does not wish to file amendments/observations but agrees that a negative IPER can be established directly, the examiner will send a direct negative IPER.

## 2.5 Request for a further written opinion

Frequently applicants explicitly ask for a further written opinion (under Chapter II) if the examiner's opinion is still negative. If the applicant has not yet had a further opportunity to file amendments in Chapter II, his request must be granted (see GL/PCT-EPO C-IV, 2.2).

If the applicant has already had a further opportunity to file amendments, then as a Rule the IPER is issued directly (see however also GL/PCT-EPO C-IV, 1).

## 3. Late-filed reply after a first or further WO-IPEA (408) has been sent

In the PCT procedure, there is no loss of right for the applicant if he does not meet the time limits for replying to a written opinion. The only risk the applicant takes with a late reply is that it might not be taken into account for establishing the IPER.

Rule 66.4bis  
GL/ISPE 19.32