

# EPO Changes Rules for Filing Divisional Applications

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The EPO's Administrative Council has decided to reverse the changes made in 2010 to the rules for filing divisional applications. These changes introduced a 24-month time limit within which divisional applications had to be filed. The changes were introduced to prevent applicants duplicating examination of subject-matter. It was hoped that after the changes were made, the filing of divisional applications would decline. However, the precise opposite occurred because many applicants filed divisional applications as a precaution before expiry of the time limit.

On 1 April 2014, Rule 36(1) EPC will be amended to restore the situation to that prior to 2010. Applicants will be permitted to divide an application at any time during its pendency. This change will apply to all divisional applications filed on or after 1 April 2014. This raises the possibility that it might be possible to file divisional applications on some cases where the 24-month time limit has already expired if the application can be kept pending until 1 April 2014. As a slight sting in the tail, Rule 38 EPC will also be amended to allow an additional fee to be levied where chains of divisional applications are filed.

In view of these changes, applicants should review their pending European applications for which the 24-month time limit has already expired, especially those close to grant, to identify any that they now wish to divide. Early action to assess whether it is necessary to delay processing of those applications is recommended.

## Authors