

Order
of the President of the Court of Appeal of the Unified Patent Court
concerning a petition for review of a decision by the Registrar
issued on 24 July 2025

HEADNOTE:

- The one-year time period set out in Rule 12.1 of the EPLC Rules does not violate the principles of equality and proportionality.

KEYWORD:

- EPLC Rules

APPLICANT:

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PETITION FOR REVIEW:

- APL_18313/2025 UPC_CoA_347/2025

ORDER OF THE REGISTRAR TO BE REVIEWED:

- ☐ Order of the Registrar ORD_13872/2025 of 20 March 2025 concerning App_8935/2025
UPC_CoA_347/2025

DECISION OF THE REGISTRAR DENYING RELIEF:

- ☐ Order of the Registrar ORD_18957/2025 of 7 May 2025 concerning APL_18313/2025
UPC_CoA_347/2025

SUMMARY OF FACTS:

1. On 21 February 2025, the applicant requested to be entered on the list of representatives before the Unified Patent Court (UPC). With his application, he submitted a certificate issued on 28 January 2022 by the Centre d'Etudes Internationales de la Propriété Intellectuelle (CEIPI), which attests that the applicant successfully completed the CEIPI courses leading to the Diploma on "Patent litigation in Europe". This course is referred to in Rule 12.1(a) of the Rules on the European Patent Litigation Certificate and other appropriate qualifications (hereinafter: EPLC Rules).

2. On 20 March 2025, the Registrar of the UPC rejected the application as it had not been filed within the transitional period of one year from the entry into force of the UPC Agreement on 1 June 2023 during which it was possible to file applications for registration as a representative pursuant to Rule 12.1 EPLC Rules.
3. In his petition for review dated 15 April 2025, the applicant asserts that:
 - the course he attended at CEIPI during the 2020-2021 academic year had the same curriculum as the courses offered in subsequent academic years,
 - the one-year period set out in Rule 12.1 of the EPLC Rules is illogical, discriminatory and contrary to Italian practice regarding qualifications for practicing law, as well as to the European Patent Office (EPO) practice regarding eligibility for the European Qualifying Examination (EQE), which allows entry onto the list of EPO representatives, and
 - in his view, his challenging health-related personal circumstances, specifically his sick leave from 29 April 2024 to 31 January 2025, justify the delayed submission of his petition.
4. On 7 May 2025 (ORD_18957/2025), the Registrar held that the petition for review is admissible but unfounded and forwarded it to the President of the Court of Appeal pursuant to Rule 12.1 EPLC Rules.
5. In the reasons for his decision, the Registrar stated that:
 - the one-year transitional period set out in Rule 12.1 of the EPLC Rules is sufficient,
 - even an applicant facing challenging health-related circumstances, such as those in the case at hand, had ample opportunity to apply within the relevant deadline,
 - it falls outside the purview of the UPC to assess whether the program for the 2020-2021 academic year leading to the CEIPI “Diploma on Patent Litigation in Europe” has been amended or remains unchanged in subsequent academic years.

REASONS FOR THE ORDER:

6. The Petition for Review is admissible but unfounded.
7. Pursuant to Article 48(2) UPCA, parties may be represented by European Patent Attorneys who are entitled to act as professional representatives before the European Patent Office pursuant to Article 134 of the EPC and who have appropriate qualifications such as a European Patent Litigation Certificate. In accordance with Rule 286.2 of the Rules of Procedure of the Unified Patent Court (hereinafter: Rules of Procedure), these requirements must be demonstrated by submitting the relevant certificates.
8. The applicant has not demonstrated that he has the qualification required to represent a party before the Unified Patent Court, as required by Article 48(2) UPCA, which may be demonstrated, for example, by a European Patent Litigation Certificate.
9. The requirements for such a qualification have been defined in more detail, and exclusively, by the Administrative Committee in the EPLC Rules. According to Rule 2 EPLC Rules, the qualification requires a certificate confirming successful completion of an accredited course on European patent litigation, or, as stated in Rule 12.1(a) EPLC Rules, the successful completion of certain specifically named courses.

10. The applicant's request fails to meet the requirements set out in Rules 2 and 12.1(a) EPLC Rules respectively.
11. The course completed by the applicant at CEIPI in 2022 was conducted prior to its accreditation by the Administrative Committee on 24 November 2023 and is thus not an accredited course within the meaning of Rule 2 EPLC Rules.
12. The course completed by the applicant is named in Rule 12.1(a)(i) EPLC Rules listing "other qualifications". However, pursuant to Rule 12.1 EPLC Rules, such courses are deemed appropriate qualifications only "[d]uring a period of one year from the entry into force of the Agreement on a Unified Patent Court". This period commenced on 1 June 2023 and (, since 1 and 2 June fell on a Saturday and Sunday respectively,) expired on 3 June 2024. The applicant's request, dated 21 February 2025, was filed after the expiry of this period.
13. Insofar as the applicant refers to the absence of time limits for registration as a lawyer under Italian law, this is not applicable to the present case. As explained above, the requirements for registration as a representative before the UPC are set out in Article 48 (2) UPCA and the EPLC Rules, which were adopted by all Member States. Any general national provisions deviating from Article 48 (2) UPCA or the EPLC Rules are not applicable to the registration of representatives before the UPC.
14. Contrary to the applicant's assertion, the one-year period stipulated in Rule 12.1 EPLC Rules is neither illogical nor discriminatory. Rule 12.1 EPLC Rules is an exception to the general rule that only the successful completion of an accredited course entitles the participant to the corresponding certificate (Rules 1 et seq. EPLC Rules). This exception is clearly limited to the transitional period of one year. Given that Rule 12.1 EPLC Rules expressly identifies both the specific courses and the applicable grace period, any interpretation that would extend its application beyond the literal wording would be inconsistent with the limiting purpose of said rule.
15. Only during this transitional period the successful completion of one of the courses or the grant of one of the certificates listed in Rule 12.1(a) EPLC Rules can be deemed as an appropriate qualification for a European Patent Attorney pursuant to Article 48(2) UPCA and as such to be an equivalent to a European Patent Litigation Course accredited by the UPC Administrative Committee on the basis of an opinion of the UPC Advisory Committee under Rule 8.1 EPLC Rules.
16. Neither the EPLC Rules themselves nor the application of said rules by the Registrar of the UPC violate the principles of equality and proportionality. The ratio underlying the EPLC Rules, in particular Rule 2 and 12.1, is to ensure qualified representation of the parties before the Unified Patent Court. According to Article 48(2) UPCA, only European Patent Attorneys may be admitted as party representatives provided, they are not only authorized to act before the European Patent Office but have also demonstrated their ability to conduct European patent litigation through a corresponding certificate or equivalent qualification as defined in the EPLC Rules adopted by the Administrative Committee, in which all Contracting Member States of the UPC Agreement are represented. The principles of equality or of proportionality do not require the Member States to provide exceptions from the general rule of completing an accredited course. In this context, the decision of the Member States to allow registration based on unaccredited courses only for a

limited period of time and only for a specified list of courses is, in itself, not objectionable.

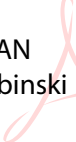
17. Furthermore, it should be noted that the applicant still can demonstrate the required qualification by either obtaining a European Patent Litigation Certificate or a legal diploma under Rule 11 EPLC Rules. Upon fulfilling these conditions, the applicant may then be entered in the list of representatives before the Unified Patent Court.
18. The applicant's health-related condition does not justify the registration of the applicant in the case at hand by way of re-establishment of rights.
19. Under the Rules of Procedure, a party which has failed to observe a time-limit may, under the conditions laid down in Rule 320 Rules of Procedure, request a re-establishment of rights. However, the EPLC Rules do neither include a rule on the re-establishment of right nor do they refer to Rule 320 Rules of Procedure.
20. Even if the Rule 320 Rules of Procedure would be applicable, it were already doubtful whether the "period of one year from the entry into force" of the UPC Agreement laid down in Rule 12.1 EPLC Rules is a deadline that could be subject to a re-establishment of right since the wording refers to the fact that certain courses and certificates "shall ... be deemed as appropriate" which implies that this is not a procedural deadline but a material provision.
21. If the principles on re-establishment of rights on the period of Rule 12.1 EPLC Rules would be applied in the present case, the respective requirements are not fulfilled. A re-establishment of right requires that a deadline was missed "despite all due care having been taken". The applicant has stated that, due to an accident on 29 April 2024, he was on sick leave from 29 April 2024 until 31 January 2025. However, he has not demonstrated that he was, in fact, unable to file his application within the prescribed time limit. While it is acknowledged that both of the applicant's hands were injured in the accident, this does not necessarily mean that the applicant was unable to file his application in due time, in particular with the assistance of another person. This is all the more relevant given that, due to the nature of his injuries, the applicant was likely assisted by other persons on numerous occasions during the period of his sick leave.
22. Furthermore, the requirements for such re-establishment of rights are also not met in the case at hand, as the applicant would be required to file such an application no later than six months after the expiry of the missed deadline. Such time limit for the re-establishment of rights is justified, as it serves the essential purpose of ensuring the timely conclusion of proceedings and thus providing legal certainty.
23. In view of the above, the petition for review of the Registrar's decision is unsuccessful.

ORDER:

The petition for review of the Registrar's decision of 20 March 2025 is rejected as unfounded.

This Order was issued on 24 July 2025.

KLAUS STEFAN
MARTIN Grabinski



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