



**Decision**  
**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 26 January 2026**

HEADNOTE:

- The one-year time period set out in Rule 12.1 of the EPLC Rules is not discriminatory.

KEYNOTE:

- EPLC Rules

APPLICANT:

☐ [REDACTED]

DATE OF LODGING OF THE PETITION FOR REVIEW:

- ☐ 25 September 2025

DATE OF THE ORDER OF THE REGISTRAR TO BE REVIEWED:

- ☐ 15 September 2025

DATE OF THE DECISION DENYING RELIEF OF THE REGISTRAR:

- ☐ 20 October 2025

SUMMARY OF FACTS:

1. On 29 August 2025 the applicant requested to be entered on the list of representatives before the Unified Patent Court (UPC) claiming that he fulfilled the requirements of Article 48(2) of the Agreement on a Unified Patent Court (UPCA). With his application, he submitted a confirmation of his “Kandidatenkurs Fischbachau” Certificate issued by the Patentanwaltskammer with effect from 22 September 1989. This course is referred to in Rule 12.1(a) of the Rules on the European Patent Litigation Certificate and other appropriate qualifications (EPLC Rules).
2. On 15 September 2025, the Registrar of the UPC rejected the application as it has not been filed within the transition period of one year from the entry into force of the UPC Agreement on 1 June 2023 as required by Rule 12.1 EPLC Rules.

3. In his petition for review dated 25 September 2025 and his further submission dated 19 November 2025 the applicant asserts that:

- Rule 12 EPLC Rules contains no specific provisions regarding the manner or timing by which a person must provide evidence of completion of the course “Law for Patent Attorneys” offered by FernUniversität Hagen, or its predecessor, the course “Kandidatenkurs Fischbachau” referenced in Rule 12.1 (a)(ii) EPLC Rules for the purpose of being entered on the list of authorised representatives;
- the period set forth in Rule 12 EPLC Rules governs the completion and availability of certain degrees, and not a time limit for submitting an application under Rule 12 EPLC Rules;
- the UPCA is a multinational agreement that enters into force at different times in the signatory states and contains no provisions exempting the application of individual rules from the timing of their respective entries into force. Consequently, applying its legal consequences uniformly to European Patent Attorneys across all current and future signatory states appears inconsistent with the principle of equal treatment;
- disqualifying individuals solely on the basis of an arbitrary time limit results in discrimination against those who have obtained qualifications under Rule 12.1 EPLC Rules, in comparison with persons holding qualifications pursuant to Rule 11 EPLC Rules;
- the practice of the Registrar is discriminatory with regard to the different assessment of the supplementary national qualification. Rule 12 EPLC Rules concerns national qualifications that are assessed differently and thus discriminatorily.

4. On 20 October 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 19 EPLC Rules.

5. In the reasons for his decision, the Registrar stated that:

- Rules 11 and 12 EPLC Rules provide two separated grounds for registration. Rule 11 EPLC Rules provides an alternative to the EPLC certificate, not limited in time since it is based on the notion that the applicant has a certain competence in the legal field, while Rule 12 EPLC Rules contains a time limited possibility to be registered on the basis of other appropriate qualifications, such as certain courses and diplomas for patent attorneys. Rule 12 EPLC Rules has a clearly stated limitation in time meaning that applications can only be successfully filed during a period of one year from the entry into force of the Agreement on a Unified Patent Court. If the Administrative Committee would have desired to allow applications filed under Rule 12 EPLC Rules also after the above-mentioned period, it would have formulated the rule in a different way.
- The possibility to be registered as a representative before the Court is open to all European Patent Attorneys and is not restricted to individuals from States parties to the UPC Agreement. The applicant’s argument concerning entry into force of the Agreement in relation to European Union Member States that still has not ratified the UPC Agreement is therefore irrelevant for the present examination.
- Since the possibility to apply under Rule 12 EPLC Rules has been open to all European Patent Attorneys from all EU Member States and since a one-year period provides ample opportunities to file such an application, the application of the current provision cannot be deemed to be discriminatory.

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 the necessary 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. Although the applicant has submitted that he is authorized to appear before the European Patent Office as a professional representative, there is no evidence that he has the qualification required to represent a party before the Unified Patent Court, as required by Article 48(2) UPCA, such as, for example, 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 does not meet the requirements set out in Rules 2 and 12.1(a) EPLC Rules respectively.
11. The course completed by the applicant is named in Rule 12.1(a)(ii) EPLC Rules listing "other qualifications". However, pursuant to Rule 12.1 EPLC Rules, such courses are deemed as appropriate qualifications only "during 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 29 August 2025 was filed after the expiry of this period.
12. Contrary to applicant's allegation it is not relevant that the UPCA did not enter into force in all signatory states. The wording of Rule 12 EPLC Rules does not provide such requirement so that the entering into force on 1 June 2023 started the period under which certain courses were deemed to be proper qualification under Art. 48(2) UPCA. Furthermore, the application to be registered as a representative before the Court under R. 12.1 EPLC-Rules was open to all European Patent Attorneys and was not restricted to individuals from states having ratified the UPCA.
13. Rule 12.1 EPLC Rules is an exception from the general stipulation that only the completion of an accredited course entitles the participant to a respective certificate (Rules 1 et seq. EPLC Rules). The purpose of Rule 12 is to have a sufficient number of representatives available immediately after the entering into force of the UPC. Consequently, the exception has been limited to a

transitional period of one year by the legislator of the EPLC Rules.

14. Given that Rule 12.1 EPLC Rules is an exception and 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. Rule 12 EPLC Rules does not set a time limit for submitting a request for registration, as confirmed by Rules 13 and 14 EPLC Rules. Consequently, requests filed after 3 June 2024 are, in that respect, admissible. However, Rule 12.1 is relevant to the substantive question of whether the request for registration is well-founded, namely whether the applicant possesses an appropriate qualification. For courses and certificates listed under Rule 12.1 EPLC Rules, this is only the case if the request was filed before the expiry of the grace period on 3 June 2024.
16. 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 Art. 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.
17. Neither the EPLC Rules themselves nor the application of said rules by the Registrar of the UPC violate the principles of equality or are discriminatory. The EPLC Rules, in particular Rule 2 and 12.1, are justified by the objective of ensuring qualified representation of the parties before the Unified Patent Court. According to Art. 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 an appropriate certificate or equivalent qualification. This purpose requires that the more detailed requirements for obtaining such a certificate and the equivalent qualification be explicitly regulated, which has been fully achieved through the adoption of the EPLC Rules by the Administrative Committee, in which all Contracting Member States of the Agreement on a Unified Patent Court are represented. The principles of equality or of proportionality do not require the Member States to provide exceptions to 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 and only for a specified list of courses is, in itself, not objectionable.
18. As rightly pointed out by the Registrar the one-year-period laid down in Rule 12.1 EPLC Rules gave applicants ample opportunity to rely on a course or a certificate listed in Rule 12.1(a) EPLC to prove appropriate qualification as required by Art. 48(2) UPCA.
19. Furthermore, it should be noted that the applicant 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.
20. Oral proceedings are not provided for in the EPLC Rules. The applicant had the opportunity to submit written comments in the ongoing proceedings.

21. 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 15 September 2025 is rejected.

This decision was issued on 26 January 2026.

KLAUS STEFAN  
MARTIN  
Grabinski



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Dr Klaus Grabinski  
President of the UPC Court of Appeal