



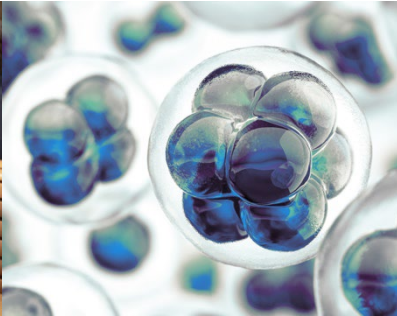
Europäisches  
Patentamt

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# Oral proceedings by videoconference in opposition

## Legal aspects



# Background

Oral proceedings by ViCo so far not permitted in opposition proceedings

The current exceptional situation caused by the Coronavirus outbreak has created an unprecedented need for oral proceedings by ViCo

Since early March 2020 the EPO has taken several ad hoc measures to facilitate ViCo

➤ ViCo exceptionally allowed in opposition

Beyond current situation, oral proceedings by ViCo are an important step towards a more efficient, modern and sustainable European patent system, in line with the goals of the Strategic Plan 2023

# Legal basis

Article 113(1) EPC: Right to be heard

Article 116(1) EPC: Right to oral proceedings

- Does not imply a right of the party to have oral proceedings in the form of its choice

Oral proceedings by ViCo are not excluded in the EPC

The form of oral proceedings is left to the organisational powers of the EPO President under Article 10(2)(a) EPC

Implementation of the new framework by a Decision of the EPO President

# New framework

To assess the suitability of ViCo in opposition, a pilot project will be launched

Introduction of the pilot project by the Decision of the President of the EPO dated 14 April 2020

The pilot period will start with entry into force of the Decision (4 May 2020) and will run until 30 April 2021

The pilot project extends to all oral proceedings before opposition divisions that are scheduled to take place after the entry into force of the Decision

During the pilot phase, oral proceedings may be held by ViCo if all parties to be summoned to the oral proceedings and the opposition division agree

# New framework

Oral proceedings may not be held by ViCo in cases of

- taking of evidence
- an impediment of a party to participate via ViCo
- need for interpretation (technical solution in progress)
- other serious reasons

Remote participation from different locations possible for

- parties, representatives and accompanying persons (upon request)
- members of the opposition division (parties will be informed)

For deliberation and voting, a separate ViCo will be set up between the members of the division

# New framework

Documents to be submitted by email

In case of technical problems which cannot be overcome during the ViCo, a new summons to oral proceedings will be issued

Since oral proceedings in opposition proceedings are public (Article 116(4) EPC), members of the public can attend oral proceedings held by ViCo

- in a dedicated room on the premises of the EPO
- upon giving prior notice, remotely via a link for connecting to the videoconference

# Remote participation from different locations

Distributed OP Vico in opposition

