



SACEPO WPR Meeting on 31.3.2020

Report by the epi delegates

At the above meeting, a number of interesting topics were raised.

The EPO presented a pilot for use of email in notifications related to pending oral proceedings (i.e. between summons and oral proceedings). They further presented the concept of one centralised payment service, and a proposal to abolish the Rule 71(3) EPC waiver. The EPO explained the declaration of incompatibility re. new Rule 20.5bis PCT on the correction of erroneous filings, and presented a draft Rule 56a EPC intended to allow withdrawing the declaration. These topics did not raise any particular concern among the participants.

One topic of particular interest to **epi** members related to Oral Proceedings to be held as a VideoConference (ViCo). To begin with, the EPO presented a plan for conducting Oral Proceedings, for both examination and opposition, using ViCo, allowing everybody to be at a different location. The EPO showed that they are planning to have internally “double connections”, one for deliberation among examiners only, the other shared by the EPO and the other participants.

After the EPO's presentation, Mr. Mercer on behalf of **epi**, expressed the epi opinion set out in a letter sent by the President of **epi** to Mr. Campinos later on that day. A copy of this letter is available on the **epi** website. Other users, including Business Europe, supported epi's view.

epi, and the other users, were of the opinion that it should be, after the crisis, equally easy to request ViCo or face-to-face oral proceedings in examination and that the EPO should not to rush into make something created for an emergency situation into a permanent solution. All the users were in favour of letting the applicant decide whether to have ViCo or face-to-face oral proceedings.

As to opposition, several concerns were raised, especially for interpretation, access to the public (how do you know who is the public), how to prevent recording of the oral proceedings and how to organize communication within a party if the members of that party are in different locations. The EPO announced that piloting ViCo oral proceedings in opposition will start soon.

The EPO referred to its statistics which show that, although ViCo has been possible in examination for more than 21 years, less than 10% of examination OPs used ViCo. The EPO promised training and testing possibilities (mock OP via ViCo) and the EPO is thinking also of “chat rooms for parties” that resemble attorney coffee rooms. The EPO said that the solutions for tackling the current situation are sustainable and could go further and they are based on many considerations, i.e. created with the view that they are not temporary. The EPO said that one reason for ViCo as default in ex parte proceedings, and only exceptionally allowing face-to-face, is equality principle (no location-based advantage).

epi and other users maintained their opposition to the imposition of ViCo as the default setting for any oral proceedings and pointed out that there had been no prior consultation on this specific proposal.