

Hague could be deduced from Art. 116 EPC 1973 in conjunction with Art. 10(1), (2)(a) and (b) EPC 1973. See also T 689/05, T 933/10, T 1142/12.

The examining division's rejection of the applicant's request that the oral proceedings be held in Munich instead of The Hague must be reasoned, R 111(2) EPC, R 68(2) EPC 1973 (see T 689/05, T 933/10).

In T 1142/12 the board considered that the practical aspects of the organisation of oral proceedings were matters of EPO management, which came under the power of the President of the EPO as provided by Art. 10(2) EPC. The board held that the examining divisions were clearly not allowed to take a decision on this matter. When not acceding to a request to hold oral proceedings in Munich instead of The Hague, the examining division did not take a decision but only expressed the way the EPO was managed. Consequently, that issue was not subject to appeal, nor could the board refer a question on the venue of oral proceedings to the Enlarged Board. In R 13/14 the Enlarged Board clarified that the wording used in T 1142/12 did not mean that the board had refused to decide on the issue; rather, the board had implicitly decided on the request and refused it.

In G 2/19 (OJ 2020, A87) the Enlarged Board held that oral proceedings before the boards of appeal at their site in Haar do not infringe Art. 113(1) and 116(1) EPC. The Enlarged Board observed that the fact that the boards currently performed their judicial function in Haar was the result of organisational acts adopted and implemented by the mandated organs of the European Patent Organisation in exercise of their powers.

7. Conduct of oral proceedings

7.1. Length and structuring of oral proceedings

7.1.1 Speaking time during oral proceedings and interruptions by the board

In T 601/05 of 2 December 2009, in the evening of the second day of the oral proceedings, the board had limited the speaking time to ten minutes for each party for a "final round" of discussion with respect to a particular argument. In the board's view, the limitation of time was a necessary procedural measure by which the right to be heard pursuant to Art. 113(1) and 116 EPC had not been violated. On the one hand, it was the attorneys' responsibility to structure their pleadings in such a way that the time frame of the oral proceedings, which had been communicated to the parties with the summons and had not been objected by them, can be complied with. On the other hand, it was the board's responsibility to conduct oral proceedings in such a way that the time frame was kept to and to ensure that the case was ready for decision at the end of the oral proceedings. It followed from Art. 15(4) and (6) RPBA 2007 that the structuring of the oral proceedings was within the discretion of the board.

In T 792/12 the board held that a chairman may interject in a party's submissions to ensure that the proceedings are efficiently conducted, in particular to avoid a party repeating arguments. Any member of the board may interrupt to ask questions which are considered important for reaching a decision.