

does not decide otherwise in cases where admission of the public could have serious and unjustified disadvantages, in particular for a party to the proceedings. The board held that as the debate dealt with the request for exclusion of certain documents from file inspection, which had been excluded provisionally, the public could not be admitted to the hearing on this point. Otherwise, the purpose of the provisional exclusion would have been frustrated. In such a situation, the danger of serious and unjustified disadvantages had to be deemed to exist.

In J 2/01 (OJ 2005, 88), at the beginning of the oral proceedings, the Legal Board informed the appellant that these proceedings were not public. Although the requirements of R 48(2) EPC 1973 for non-publication of the application appeared not to have been met, the application in suit had in fact not been published. Since Art. 116 EPC required publication as a prerequisite for oral proceedings to be public, the Legal Board had corrected its original summons to public oral proceedings.

Referring to R 144(a) EPC (R 93(a) EPC 1973), boards excluded the public from oral proceedings on the matter of objections to members of the boards in T 190/03 (OJ 2006, 502), R 2/14 of 17 February 2015, R 8/13 of 20 March 2015 and T 1938/09 of 2 October 2014. In T 190/03, at the end of the oral proceedings, the public was readmitted and the decision was given.

7.3. Oral proceedings held by videoconference

7.3.1 Legal basis

In the communications concerning oral proceedings before the boards of appeal entitled "Restrictions due to the coronavirus (COVID-19) pandemic and introduction of videoconferencing technology in appeal proceedings", published on the website of the Boards of Appeal on 6 May, 15 May, 25 May 2020, etc., the boards of appeal informed the public of the possibility of conducting oral proceedings before the board using videoconferencing technology, which would require agreement from all parties.

According to new Art. 15a RPBA 2020, which entered into force on 1 April 2021, oral proceedings can be held by videoconference if the Board considers it appropriate to do so, either upon request by a party or of its own motion (OJ 2021, A19). The agreement of the parties is no longer required. See also G 1/21 (OJ 2022, A49).

Several publications in the OJ concerned oral proceedings by videoconference before the departments of first instance: before opposition divisions, see OJ 2020, A121; before examining divisions, see OJ 2020, A134; before the Receiving Section, see OJ 2021, A49; before the Legal Division, see OJ 2021, A50.

7.3.2 Oral proceedings by videoconference in case of general emergency – G 1/21

In T 1807/15 the board referred the following question to the Enlarged Board: Is the conduct of oral proceedings in the form of a videoconference compatible with the right to oral proceedings as enshrined in Art. 116(1) EPC if not all of the parties to the proceedings