**Procedural changes**

**Alignments with recent case law**

- Partial priority in view of G1/15
  - Following the decision G1/15 of the Enlarged Board of Appeal, so-called "poisonous priorities" and "toxic divisions" are incompatible with European patent law. This decision brings greater legal certainty to the assessment of priority, thereby assuring that a priority application may not be prior art against subject-matter of later applications enjoying full or partial priority from it. The decision also confirms that the subject-matter of a valid divisional application always enjoys the filing date or the priority date of the parent application. This means that a parent application cannot anticipate the subject matter of a child divisional application, and vice versa.

- Undisclosed disclaimers in view of G1/16
  - The disclaimer may not provide a technical contribution to the subject-matter disclosed in the application as filed.
  - It may not become relevant for the assessment of inventiveness step or sufficiency of disclosure.
  - It may not remove more than necessary to restore novelty or to disclaim subject-matter excluded from patentability.
  - For a disclosed disclaimer, the "gold standard" of G 2/10 remains the proper test for allowable.

**EP Rule changes**

- Rule 5(1) EPC – Extension of period for payment of third renewal fee
  - Renewal fees may normally not be validly paid more than three months before they fall due. From 01.04.2018, the renewal fee in respect to the third year may be validly paid up to six months before it falls due. This enables applicants to pay this fee upon regular entry into the European phase.

- Third-party observations
  - Third-party observations will be considered by the Examining Division at any point of the procedure, even after a Rule 7(13) EPC communication has been issued. Observations filed during the international phase will be examined once the application enters the European regional phase.
  - Where the observations are found not to be relevant, this will be noted in the next action or in an ad-hoc statement in the public file of the filing. Observations will also trigger the expedited processing of the application, provided they are substantiated and non-anonymous.

- New validation states TN and KH
  - Tunisia (TN) and Cambodia (KH) have now joined Morocco (MA) and the Republic of Moldova (MD) in signing agreements for the validation of European patents. In Cambodia, pharmaceutical products are excluded from patent protection until 2023 because the country benefits from the WTO waiver for Least Developed Countries.

**Migration to IP-based ViCo**

- Since January 2019, the EPO no longer supports video-conferencing via ISDN. Video-conferences are now exclusively conducted using IP technology: SIP, H.323, Microsoft Skype for Business (SIP) Clients and SIP Room Systems, browser-based web meeting via SIP WebApp. Where a request for an interview or oral proceedings to be held as a video-conference is granted, the requester is provided with an electronic link allowing them to establish a direct connection to the SIP virtual video-conference room at the EPO. Alternatively, a SIP or H.323 based connection can be established by means of the unique conference ID provided to the requester.

**Electronic priority documents**

- In addition to OLF, priority documents can now be filed electronically via CMS, provided they have been digitally signed by the issuing authority and the signature is accepted by the EPO.

**Strengthening the PCT**

**Global protection with PCT at the EPO**

**WIPO Digital Access Service (DAS)**

- The EPO participates in priority document exchange via the WIPO Digital Access Service (DAS), for both European patent applications and for international applications filed with the EPO in its capacity as Receiving Office.
- DAS allows applicants to:
  - request the first office (Office of First Filing (OFF) or Depositing Office) to make priority documents available to the system; and
  - authorise other offices (Office of Second Filing (OSF) or Accessing Office) to retrieve those documents via the service by using an "access code" provided by the applicant.
- A DAS access code is generated automatically for any new EP application or any new international applications filed with RO/EPO. Applicants can use this code to authorize any participating OSF to retrieve a certified copy of the application directly from the OFF via DAS, without the need to request a certified paper copy.

**Collaborative Search & Examination (CS&E) Pilot**

- On 1 July 2018, the IPS Offices launched the operational phase of the IPS CS&E pilot project to test a collaborative approach to international searches under the PCT. In this pilot project, the examiner from the Office acting as competent ISA (the "main examiner") conducts the search and establishes a provisional international search report and written opinion. These provisional works products are then transmitted for contribution to "peer" examiners from the other participating Offices in their capacity as ISAs. The final international search report and written opinion are established by the main examiner after consideration of the contributions from the peer examiners.

**Earlier start of PCT Chapter II**

- As of 01.07.2019, under R 69.1 (a) PCT the EPO as IPEA will start Chapter II examination as soon as it is in possession of:
  - the demand;
  - the relevant fees; and
  - the International Search Report (or declaration of no search), unless the applicant expressly requests postponement until the end of the time limit laid down in Rule 54bis PCT.

**PPI Pilot**

- EPO PPI Partners now include: Japan, United States, South Korea, China, Australia, Brazil, Canada, Colombia, Eurasian Patent Office, Israel, Malaysia, Mexico, Philippines, Russia and Singapore.

**File inspection in PCT**

- The documents relating to PCT applications where the EPO acts as Receiving Office (RO), ISA or Authority specified for supplementary searches are now freely accessible via the European Patent Register on publication of the international application.

**EPO as RO for Belgium and Monaco**

- The Belgian Intellectual Property Office (OIPR) and the Monaco Intellectual Property Division (PDI) no longer act as Receiving Offices under the PCT. Applicants may now file at the EPO or with the International Bureau of WIPO.

**Quality, Services for users**

**Delivering high quality in a timely manner**

**Timeliness management**

- Early Certainty from Search
  - Average time between date of receipt and end of search is now 4.4 months for all searches done by the EPO.
- Prioritisation scheme
  - The EPO treats the following actions with the highest priority:
    - all first filing searches
    - PCT Ch. II – International Preliminary Examination
    - Opposition, Revocation, Limitation
    - Euro-PCT supplementary searches
    - National second filing searches
    - Examination files with PPH or PACE requests, third-party observations or enquiry
    - Examination files with a positive search opinion

**Safeguards for electronic outages**

- If, on the day a period would expire, one or more EPO electronic filing systems are unavailable due to:
  - a scheduled and previously announced service interruption lasting longer than four hours; or
  - an unexpected service interruption of any length,
  - the period is extended under Rule 134(1) to the next working day on which all filing means are available

**Improved fee handling**

- Credit card payments
  - Fees may be paid in euro by credit card via the EPO’s fee payment service. The date of payment is the date on which the transaction was approved. Where the payment process failed, the period for the payment fee is considered observed if the transaction can be proven to have been approved during this period.
- Refund methods and procedure
  - Fees will no longer be refunded by cheque. Applicants can choose to have refunds credited to either a deposit account held with the EPO or a bank account.
  - Applicants may now request for refunds to be made to a deposit account held by a third party. Instructions may be filed via EPO Online Filing, CMS or ePCT.
- Insignificant amounts
  - The insignificant amount referred to in Article 12 RFee has been increased from EUR 10 to EUR 15.
- Validation in Online Fee Payment
  - To offer more flexibility and safeguards for account holders and to further enhance the refund procedure, the EPO has extended the scope of the existing validation functionality in Online Fee Payment (OFP) to automatically reject, at source, erroneous payments.
- Revision of administrative fees
  - Certain administrative fees have been grouped together and outstanding fees have been abolished; see Decision of the President of 20.02.2019, EPO 2019 A14.

**Improved security measures**

- All visitors to EPO premises must pass a security screen including a metal detector; applicants should allow for additional time when attending oral proceedings.
- All parcels received are inspected with X-rays. Before submitting a model that might be identified as dangerous (e.g. containing liquids or powders), applicants should inform the EPO in writing, indicating the number of application or patent concerned, and wait for advice on how to proceed.

All amendments to the guidelines in 2018: