

# Kluwer Patent Blog

## Teleworking is there to stay at the European Patent Office

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The EPO has launched a public consultation on the first draft of its ‘Towards a new normal’ orientation document, discussing the post-covid organisation of the EPO.

The document “is designed to complement the EPO’s Strategic Plan 2023, which was adopted in 2019, before the current pandemic. The orientation document represents the EPO’s current assessment of how the Office could develop, based on lessons learnt up to this moment in time.” [The consultation will run until 16 April](#). Together with input from EPO staff, contributions will be used for the final version of the document, which the EPO intends to present to the Administrative Council in June 2021.



EPO Munich (photo K?rlis Dambr?ns)

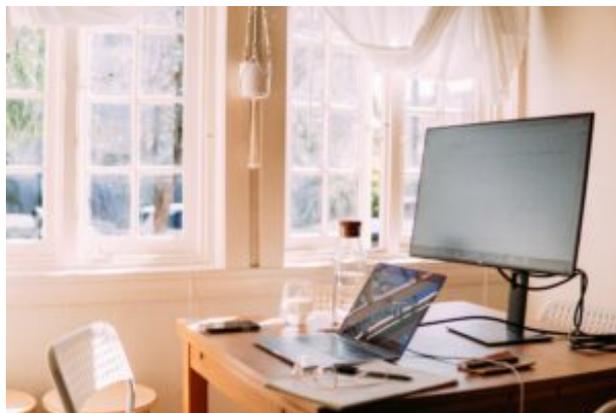
The [orientation document](#) makes clear that at the EPO, even when the covid restrictions are over, teleworking is there to stay. According to the document’s conclusions, “key areas that can potentially ensure that the EPO excels in a new normal” are:

- A new teleworking framework – to give EPO staff flexibility in where and when they choose to work, while also ensuring a clear legal framework for individual staff members and the Office.
- An enhanced digital workspace – to ensure the EPO has reliable, effective and secure tools and workflows that can be accessed from anywhere at any time and incorporating digital workflows that support the key elements of quality, including timeliness. New skills for staff and managers must also be developed to help them exploit the opportunities of the new normal and to face the unique set of challenges it brings. Digital communications will also help to connect and engage the EPO’s staff and other stakeholders.
- A new building investment programme – to answer the fundamental need for a physical workspace where EPO staff want to spend time to work, collaborate, socialise and network. The programme starts with an initial set of measures based on maintenance and sustainability, upgrades to social spaces, a new building in Vienna and an approach that brings more light into the interior of EPO buildings.

### Teleworking

Staff surveys were held in March and September 2020 on staff well-being and concerns as well as

aspirations for the future. “Four ‘work preference personae’ in the Office emerged, showing a roughly four-way split in the extent to which EPO staff want to telework in the future. Specifically, 22% of staff want to telework on a full-time basis; 30% of staff wish to telework 3 to 4 days per week; 23% of wish to telework 1 to 2 days per week; while 23% wish to be mainly or fully Office based (2% made no choice).”



According to the EPO document: “A new teleworking scheme needs to be flexible, but it must also be built on a solid legal framework that offers clarity to both individual staff members and the Office. It must also be legally sound, consistent and aligned with the Office’s employment framework. In particular, it should provide a robust legal framework to allow teleworking from locations other than the place of employment, and specifically from other EPC countries. Given the EPO’s status as an

international organisation, other specific factors also need to be considered. They include the impact upon staff benefits of working from another EPC state, the notion of a place of residence, the Seat Agreement and the Protocol of Privileges and Immunity. Some of these aspects need to be carefully assessed in close co-operation with the EPO’s host countries and other EPC member states.

To provide clarity, the Office aims to put in place a single teleworking scheme. Flexibility will be given to staff to adapt this scheme to their professional and personal circumstances.”

### **Digital workplace**

Interesting are also the plans of the EPO to “ensure that the organisation can undergo a digital transformation that is suited to a new normal”. Earlier this year, it became clear that the IT systems of the EPO were at the brink of collapse (in spite of claims by departing EPO president Battistelli in 2018 that “between 2011 and 2018, the EPO undertook an intensive programme of IT transformation with the implementation of 114 projects, supported by the budget of the IT roadmap of 140 million Euro”. EPO report [Modernising the EPO for excellence and sustainability](#), page 48). As VP1 and VP4 wrote in an internal communiqué:

“When we joined this organisation back in January 2019, we knew that we were taking on a tremendous responsibility (...). Being VPs, we share directly responsibility for almost 6000 staff (...). It is quite the challenge. But nothing had prepared us for the complexity of our IT systems with its “spaghetti” structure – one of us would be directly responsible for it, and the other its biggest stakeholder. (...) The shock came when we started to look inside the machinery. It is scary when the technology you have in front of you is from a time when you were still in school, and the people who can help you have long since retired. (...)

Putting our heads in the sand, hoping that the current machinery would survive our mandate and leaving the problems to subsequent generations was not an option. We saw that painfully a year later when the PHOENIX ImageArchive mainframe died (...). The outdated and unreliable data centre in The Hague was another headache. Thankfully, in only six months, 50% of our applications have already been transferred and are now run from the state-of-the-art Luxembourg

data centre.

(...) When the mainframe started to break down, BIT had to go headhunting and ask former colleagues and suppliers to come out of retirement to help us find the errors and keep the machines alive for one more month or week – and in some cases days – until the replacement was ready.”

According to the draft document ‘Towards a new normal’, it “is anticipated that by the end of 2021, there will no longer be a mainframe in any EPO data centre and the migration of the primary data centre to Luxembourg will be complete.”

“Overall, by improving its digital foundations, the EPO will achieve greater reliability, availability and security of its IT systems. In turn, both staff and external users will have greater access to more secure tools, accessible from any place and at any time to support their teleworking choices.”

“While this was always a goal of the Strategic Plan 2023, the pandemic has accelerated digitalisation efforts.”

### **Videoconferencing**

The use of videoconferencing, although not **uncontroversial**, “will play a key role” in the new normal, according to the EPO. “Over 2 600 oral proceedings were held by ViCo in 2020, compared to less than 900 in 2019. The experience gained not only served as a basis for further improvements, but is also helping the Office to prepare for the projected rise in oral proceedings by ViCo in examination. This year already – as of 8 March – 614 oral proceedings by ViCo for examination have already been held.

In May 2020, a pilot for ViCo proceedings for opposition was also launched. However, by the end of 2020 a slow uptake of the scheme led to a backlog of around 2 000 more opposition cases than in 2019. Following an extensive assessment published in November 2020, the Office decided to extend the pilot until 15 September 2021. It was also decided that opposition by ViCo would take place as the default from 11 January 2021. As of 8 March, 684 oral proceedings by ViCo for opposition have already taken place.”

The EPO document also outlines plans for digital training, data protection, online events and communication and other elements of the ‘new normal’: “existing EPO staff are being given new skills to help them face the unique range of challenges posed by teleworking. Similarly, managers are being trained specifically to lead remote and hybrid teams.”

### **Building policy**

The covid pandemic is also influencing the EPO’s building policy: “In developing a new building investment programme the Office faces two challenges; firstly, the way buildings will be used by staff in a post-pandemic situation cannot be predicted with any certainty, and the occupancy rate can only be estimated at around 50% on any given day; secondly, the roll out of a more extensive teleworking policy could also have a profound impact on the use of EPO buildings. The details of the teleworking scheme are still in development and its full impact on building use is also currently unknown.”

In the annex on the final pages of the document, findings are summarized of the surveys carried out by Willis Towers Watson (WTW) among staff.

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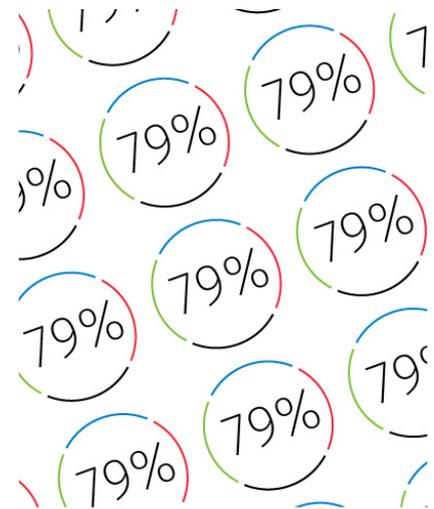
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