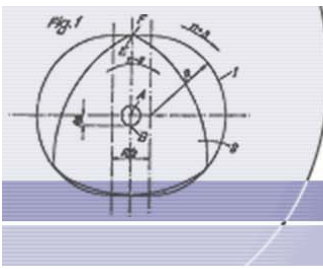


Pfenning, Meinig & Partner GbR
Patent Attorneys and Lawyers

EPC 2000

The revised European Patent Convention



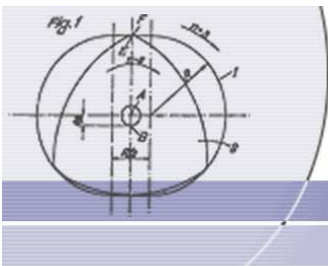
EPC 2000

The Diplomatic Conference 2000 of the Member States issued an EPC Revision Act:

EPC 2000

will go into effect no later than

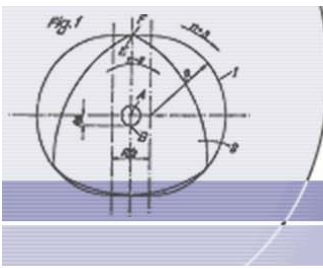
December 13, 2007



EPC 2000

Aim of the Revision Act:

- Bringing the EPC in accordance with the TRIPs Agreement and the Patent Law Treaty
- Facilitating future adjustments of the EPC by simplifying the Articles and by delegating more detailed provisions to the Rules of the Implementing Regulations



Art. 14 (1) and (2) EPC (Languages)

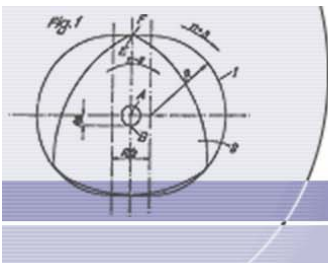
Present Situation

EP applications have to be filed in one of the official languages, i.e., in English, French or German

(exceptions only for residents and nationals of Contracting States having an official language other than English, French or German)

EPC 2000

EP applications can be filed in any language if a translation into one of the official languages is filed within two months after filing the respective application



Art. 54 (3) EPC (Novelty)

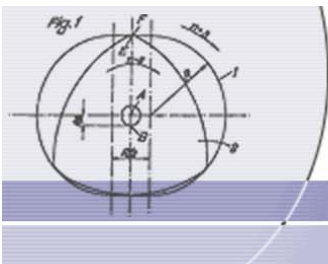
Present Situation

Earlier EP applications* are considered as comprised in the state of the art for the examination of novelty with effect for mutually designated Contracting States only (Art. 54 (4) in EPC 1973)

EPC 2000

Earlier EP applications* are considered as comprised in the state of the art for the examination of novelty with effect for all Contracting States

*having an earlier filing date or priority date and being published on or after the filing or priority date of the later application



Art. 80 EPC (Date of Filing)

Present Situation

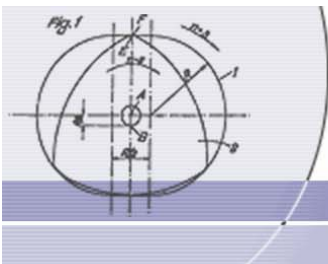
A date of filing is adjudicated if the filed documents contain

- *an indication that a European patent is sought*
- *information identifying the applicant*
- a description and at least one claim (both in one of the admitted languages)

EPC 2000

A date of filing is adjudicated if the filed documents contain

- *an indication that a European patent is sought*
- *information identifying the applicant or allowing the applicant to be contacted*
- a description or reference to a previously filed application (in any language)



Art. 87 EPC (Priority Right)

Present situation

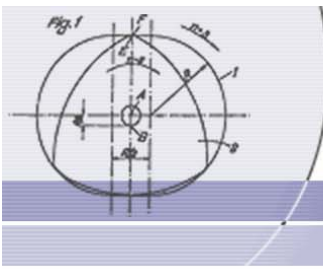
Priority right is limited to first filings in states which are

parties to the Paris Convention

EPC 2000

Priority right is extended to first filings in

any WTO member state



New Art. 105a EPC (Request for Limitation or Revocation)

Present Situation

There is no central limitation procedure for the European patent

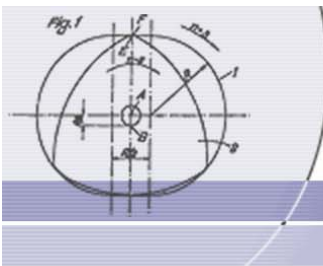
→ Limitation or revocation with effect for all Contracting States only in an opposition procedure

EPC 2000

The European patent can be limited or revoked for all Contracting States at the request of the proprietor at any time *

→ Avoidance of a large number of different national limitation procedures

* precondition: no pending opposition proceedings



Art. 121, 122 EPC (Further Processing and Restitutio in Integrum)

Present Situation

Further processing applies to non-observance of time limits set by the EPO

Restitutio in integrum also applies to non-observance of time limits defined by the EPC

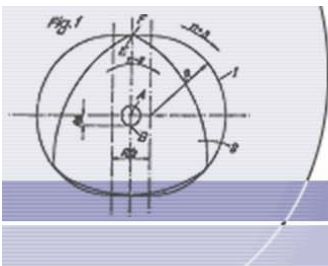
EPC 2000

Further processing applies to virtually all time limits

(important remaining exceptions: time limits for claiming a priority, for an appeal, for further processing, for restitutio in integrum, for the payment of annuity fees)

Restitutio in integrum only applies to a restricted number of time limits

(including the time limit for claiming a priority)



Art. 124 EPC (Information of Prior Art)

Present Situation

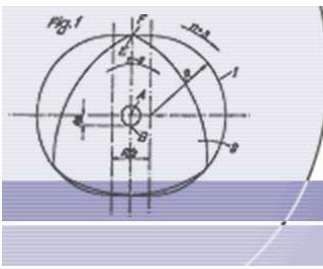
The EPO may invite the applicant to indicate the states in which he has made applications for national patents relating to the same invention

(hardly ever applied)

EPC 2000

The EPO may invite the applicant to provide information on prior art taken into consideration in parallel patent application proceedings concerning the same invention

(= "weak" IDS requirement)



Rule 112 EPC 1973 → Rule 164 EPC 2000 (PCT: EPO as Designated Office, Lack of Unity)

Present Situation

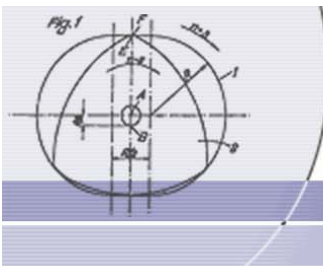
By entering the European phase a European search report can be obtained also for those parts which have not been searched by the ISA

→ protection can be sought for any invention or unitary group of inventions covered by the European search

EPC 2000

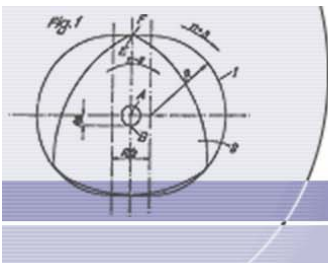
The supplementary European search will cover only one invention or unitary group of inventions

→ prosecution of the application for any other invention only by filing a divisional application



Transitional Provisions (see Art. 7 of the Revision Act)

- EPC 2000 shall apply to all EP applications filed on or after its effective date as well as to all EPs resulting from these applications
- EPC 2000 shall generally not apply to EP applications made pending before and to EPs granted before its effective date
- Exceptions: Some provisions of the EPC 2000 (in particular the new Articles 105a, 121, 122, 124 EPC) shall also apply to EP applications already pending at the effective date or to EPs resulting from these applications or granted before the effective date



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