

PATENT PACKAGE: MANDATE FOR NEGOTIATIONS

A mandate for the rapporteurs of the patent package to enter into negotiations with the Council and the Commission, which incorporates the following priorities, is proposed:

1. The Patent Package

a. The two proposals on the creation of the unitary patent protection and on the translation arrangements as well as the creation of the jurisdictional system for patent disputes through an international agreement will be dealt with by the Parliament as a package.

b. The regulation on the creation of the unitary patent protection should enter into force together with the regulation concerning the translation arrangements and become applicable only when the agreement on the jurisdictional system becomes operational. It must be ensured that entry into force or applicability of all elements of the package is directly and indivisibly linked.

2. A proposal for a regulation dealing with the creation of unitary patent protection - PR Rapkay

a. The Commission proposal builds on the existing system of European patents granted under the European Patent Convention (EPC) by the European Patent Office. The introduction of unitary patent protection is to be based on the provisions of the EPC, with the regulation constituting a special agreement within the meaning of the Convention. Unitary patent protection under the proposal is designed in such a way that no revision of the EPC will be required. Parliament is to ensure that the proposed architecture of the system is maintained.

b. The proposal provides that a European patent granted for the territories of the Member States participating in the enhanced cooperation will have a unitary effect. Such unitary patent protection is to be optional and co-exist with national and European patents. A two-step procedure for granting unitary patent protection is envisaged. Inventors and businesses from countries not participating in the enhanced cooperation and from States outside the EU will be able to apply for unitary patent protection. The Parliament will ensure that the envisaged flexibility of the unitary patent protection is preserved. In addition, the Parliament will fight for the small and medium-sized enterprises to benefit from reduced costs of the unitary patent protection by providing for specific measures directed at SMEs.

c. The Parliament is determined to establish a viable and legally sound system for setting up the level and distribution of the renewal fees.

3. A proposal for a regulation dealing with the translation arrangements for patents - PR Baldassarre
 - a. Translation arrangements are key for the implementation of the unitary patent protection.
 - b. Given that the proposal is based on the current EPO language regime, a timely introduction of the system of high quality machine translations, free and available on line, is paramount.
 - c. The Parliament will do its utmost to introduce provisions facilitating access to European patents with unitary effect, in particular for SME's and ensure that they benefit from a special reimbursement of their translations costs.
4. Jurisdictional system for patent disputes - PR Lehne
 - a. In order to complete the unitary patent protection and allow for its successful implementation it is necessary to ensure legal protection in patent disputes in Europe.
 - b. Currently, the Member States participating in the enhanced cooperation are negotiating a new agreement on a Unified Patent Court. The envisaged solution must take into account the concerns expressed by the Court of Justice in its opinion 1/09 of 8 March 2011, which was given at the request of the Council.
 - c. The Parliament also considers that the overriding objectives of the international agreement should be to ensure quality and efficiency of the litigation system. The Parliament underlines the importance of decentralised structure, experience of judges both in legal and technical matters and setting of clear procedural rules applicable to proceedings before all divisions and instances of unitary patent court system.