WRITTEN QUESTION P-1625/06
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to the Commission

Subject: Community patent

A patent system can play a fundamental role in establishing an appropriate legal status for innovations and ensuring that their originators are properly rewarded. I am concerned about European Patent Office (EPO) practices which are undermining the social acceptability of the patent system, with patents being granted for solutions that are not patentable under the current law. Fortunately, the courts in the Member States are making use of their right to rescind patents granted by the EPO for software and business methods. The difference in approach between the EPO and, for example, the Polish patent office is illustrated by the fact that the latter has for months been refusing to grant two patents to applicants granted patents by the EPO. To date, the Polish courts have upheld these decisions.

Recently, the High Court of England and Wales ruled that two patents granted by the EPO were invalid on UK territory and emphasised the need for computer programs to be excluded from the scope of patent law even in cases where the use of a program produces a physical effect.

Before the vote held in the European Parliament on 6 July 2005, the rapporteur, Michel Rocard, said that 'rejection [of the directive] is a message directed at the European Patent Office. The European Parliament has refused to ratify the recent judicial errors by extending the scope of patentability to certain software programs'. However, the EPO has not heeded that message and has not changed its practices.

Given the above, does the Commission still stand by the position set out in point 2.3.2 of the proposal for a Council Regulation on the Community patent (COM(2000) 412 final - 2000/0177(CNS)[1]), namely that the case law which the EPO developed for the European patent will apply to the Community patent?

[1] OJ C 337 E, 28.11.2000, p. 278.