



Single patent co-operation plan gets committee go-ahead

Committees: Committee on Legal Affairs

Plans to use the enhanced co-operation procedure to create a unitary patent system in the EU, as requested by 12 Member States last year, were approved by the Legal Affairs Committee on 27 January. If Parliament as a whole and Council authorise this use of enhanced cooperation, the Commission will have to table two legislative proposals - one on the language regime and the other establishing the single patent.

The Legal Affairs Committee gave its consent to the use of enhanced cooperation to create unitary patent protection in a report by Klaus-Heiner Lehne (EPP-ED, DE), which was approved by a large majority.

The request by 12 Member States (Denmark, Estonia, Finland, France, Germany, Lithuania, Luxembourg, The Netherlands, Poland, Slovenia, Sweden and the UK), to start an enhanced cooperation procedure came in December 2010, after the Member States concluded that no EU-wide agreement on the issue could be found within the Council. Other Member States may join the enhanced cooperation at any time.

Next steps

The European Parliament as a whole will vote on the proposal during the February Strasbourg session and the Competitiveness Council will examine it on 10 March.

If the enhanced cooperation is authorised by both Parliament and the Council, the Commission will present two proposals: one on the language regime (consultation procedure) and the other establishing the single patent (co-decision procedure). The Legal Affairs Committee is calling on the Council to use co-decision procedure for both proposals.

Background

Member States have been trying to agree on a unitary patent system for years but all their efforts to achieve unanimity, including those based on Commission proposals in 2000, 2009 and 2010, have failed. Language issues have proven especially problematic.

Currently, national patents coexist with a European patent but the system is complicated, since patent holders must choose the countries where they want patent protection and Member States may impose additional requirements. Furthermore, European patents are only enforced by national laws. This fragmented system is complex and expensive: according to the European Commission, a European patent validated in 13 countries can cost up to €18,000, of which nearly €10,000 goes to pay translation fees alone. This makes a European patent 10 times more expensive than a comparable US patent.

The unitary patent system aims to make it cheaper and easier for inventors to seek EU-wide patent protection, ensure equal access to all inventors within the EU, help to tackle infringements, and improve conditions for innovative businesses by removing patent rights "borders" among Member States.

What is enhanced co-operation?

Press release

Under EU rules, enhanced co-operation can be used to enable some Member States to move forward on new rules when a unanimous agreement cannot be found.

The Lisbon Treaty enables a minimum of nine Member States to co-operate using the European institutional framework where a legislative initiative in an area of non-exclusive EU competence is blocked. This is the second time that enhanced cooperation would be used. The first, on the cross-border applicability of divorce laws, was approved in 2010.

Enhanced co-operation may begin after the Council authorises it on the basis of a Commission proposal and after the European Parliament has given its consent.

In the chair: Klaus-Heiner Lehne (EPP, DE)

Plenary vote: February

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