



Done deal on the EU patent?

Committees: Committee on Legal Affairs

Plans for an EU unitary patent to cut costs for firms and boost the EU's competitiveness were agreed by Legal Affairs Committee and Council Presidency negotiators on Thursday. MEPs succeeded in adapting the proposed regime to small firms' needs, but the deal still needs to be approved by Parliament as a whole and the 25 EU Member States involved.

Parliament's rapporteurs struck a political agreement with the Polish Presidency of the Council on the three proposals (unitary patent, language regime and unified patent court) that form the "EU patent package". The agreement will now have to be confirmed by both the Parliament (after a vote in committee) and the Council. The regulation should enter into force in 2014.

The aim of creating an EU patent is twofold. First to reduce current patenting costs by up to 80%, so as to improve the competitive position of EU firms vis-à-vis their counterparts in the US and Japan, where patents are substantially cheaper. Second, it should help to avoid the legal confusion created when dealing with differing national patent laws.

"In 2011, when the proposal was first put forward, it was clear it was a key measure to be adopted. Today's agreement represents in this sense a great success, also due to Parliament's very constructive approach. We had to ensure not only the political consistency of the outcome, but also its legal coherence: the negotiations ended in a positive way in all these aspects", said committee chair Klaus-Heiner Lehne (EPP, DE), at the end of the meeting.

MEPs aim to cut costs for small firms

The first piece of legislation in the package is a regulation setting up a unitary patent protection system. The agreed text largely reflects the Commission proposal, and in particular a provision allowing inventors from countries currently outside the procedure to apply for an EU patent.

Rapporteur Bernhard Rapkay (S&D, DE) said: "The agreement represents a major step for EU industry's competitiveness. The main provisions that the EP delegation successfully pushed through concern strengthening SMEs' interests, ensuring a good compromise on renewal fees and introducing a clear date for the entry into force of the new legislation, against Council reservations".

Specific provisions have been introduced to ensure that small firms benefit from reduced costs and a sound system for distributing patent renewal fees. (Renewal fees account for a big share of total costs, and the economic sustainability of the system as a whole depends upon them).

What language for EU-wide patents?

The proposed regime for translating EU patents would make them available in German, English and French, although applications could be submitted in any EU language. Translation costs from a language other than the three official ones would be compensated.

Raffaele Baldassarre (EPP, IT), rapporteur for this second regulation, said: "Today's agreement is crucial for the competitiveness of the European Patent system. Specific measures have been agreed to facilitate SMEs' access to the European patent market. They range from a stronger legal protection to full compensation of translation costs. The difficult compromise on the linguistic regime has been kept. Nonetheless, for a transitional period a second full translation into English will be obligatory".

Enforcing protection

Press release

An international agreement is currently being negotiated by Member States participating in the procedure to create a unified patent court so as to reduce costs and uncertainty as to the law due to differing national interpretations.

Mr Lehne, rapporteur for the last piece of the package, made sure that the litigation system is efficient, by giving it a decentralised structure, clear procedural rules and judges selected for their competence.

Background and next steps

The Legal Affairs Committee will vote on the agreement at its next meeting on 19 and 20 December.

The legislation is being dealt under the so-called "enhanced cooperation procedure", which allows groups of Member States to integrate policies further, even where others do not agree. Spain and Italy have so far opted out of work on the patent proposal, but could join the decision-making process at any time. This procedure was adopted to unblock the file, long stalled over language issues.

Committee on Legal Affairs

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Procedure: trialogue

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