Industrial property: Community patent

2000/0177(COD) - 28/05/2009

The Council took note of a Presidency report on ongoing negotiations aimed at establishing a Community patent and a unified patent litigation system.

With regard to the Community patent, in the first half of 2009 discussions in the Council preparatory bodies concentrated on possible cooperation arrangements between patent offices in Europe, based on enhanced partnerships, and on the economic benefits of a Community patent, on the basis of an expert study highlighting the potential of a future Community patent to foster innovation, in particular by SMEs and universities.

As regards the unified patent litigation system, discussions focused on a draft Agreement and the draft statute of the future court. EU delegations made progress in understanding how the envisaged court system would work. Important areas addressed and further developed include: the composition of the panels of judges, the implementation and operation of the envisaged Agreement, the role of the European Court of Justice (ECJ) in the interpretation of Community law and transitional arrangements. The analysis of economic aspects was carried out on the basis of an expert study highlighting the cost-saving benefits to business of a unified patent system.

In this regard, the Council agreed in principle to request the ECJ for an opinion on whether the envisaged Agreement, to be concluded between the Community, its Member states and other contracting parties to the European Patent Convention, is compatible with the EC Treaty.

Following the conclusions of the Council of December 2006 and of the 2007 Spring European Council, the Commission presented a communication entitled "Enhancing the patent system in Europe" (8302/07) in April 2007. Progress reports were presented to the Council in November 2007 (15162/07), May 2008 (9473/08) and December 2008 (16006/08).