Community patent: establishing a Court, appeals before the Court of First Instance

2003/0324(COD) - 02/12/2009

The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were **renumbered** in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in **changes to the type of procedure**.

The Lisbon Treaty also introduced **new concepts of decision-making procedure**. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 (COM(2009)0665).

In the case of the proposal for a Council Decision establishing the Community Patent Court and concerning appeals before the Court of First Instance, **the entry into force of the Lisbon Treaty had the following impacts**:

- **the old legal basis** – Treaty/EC/Art.225a, Art.245 – **became** Art. 257, Art. 281 of the TFEU. *Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal*;

- the proposal, which had previously fallen under the old consultation procedure (CNS), was classified as an ordinary legislative procedure (COD).