Industrial property: Community patent

2000/0177(COD) - 10/12/2010

The Council **exchanged views** on the way forward for the future establishment of a single EU patent system and, in particular, the possibility of initiating **enhanced cooperation between several Member States**.

A large majority of delegations asked the Commission to present a formal proposal for initiating enhanced cooperation. The Commission announced the submission of such a proposal on 14 December 2010.

The majority of delegations considered that **enhanced cooperation, as provided for in the EU treaty, is the only option for making progress on the creation of a unified EU patent system**.

The Italian and Spanish delegations strongly opposed the idea of initiating enhanced cooperation on the basis that the requirements for engaging in that process have not yet been met.

The Hungarian delegation, which will be holding EU Presidency from January 2011, expressed its commitment to taking the work forward with a view to achieving an agreement on this issue as soon as possible.

Following ministerial discussions on 11 October and 10 and 25 November, the Belgian Presidency concluded that it is not possible to reach the required unanimity on a language regime for creating a EU patent system. Therefore a number of delegations expressed their interest in moving ahead on the basis of an enhanced cooperation.

The procedural steps to initiate enhanced cooperation in the area of unitary patent protection can be listed as follows:

- it is to be used only as a last resort after verifying the impossibility of reaching unanimity;
- an application submitted to the Commission by Member States wishing to pursue among themselves an initiative blocked at the level of the Union; there must be at least nine countries wishing to participate;
- the Commission assesses whether the request should be accepted. After acceptance, it sends the Council a proposal for authorisation. This proposal must define the framework in which the enhanced cooperation would be carried out;
- the Council grants authorisation by qualified majority, after obtaining the consent of the European Parliament;
- once the cooperation has been authorised, all members of the Council may participate in its deliberations, but only the participating countries take part in the votes;
- enhanced cooperation is open at any time to member states wishing to join in.