Enhanced cooperation in the area of the creation of unitary patent protection

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The Council authorised the launch of enhanced cooperation among EU Member States for the creation of a unitary patent title. The use of enhanced cooperation has been requested by 25 out of 27 Member States with the aim of establishing a single patent that will be valid across the territory of participating Member States. The European Parliament has given its consent to the use of this procedure on 15 February 2011.

All Member States except Italy and Spain are in favour of the use of enhanced cooperation. The main obstacle to unanimity on the creation of an EU patent is the number of languages in which the future unitary patent will be valid. Hence the recourse to enhanced cooperation.

The language regime for the future unitary patent system would be based on the language regime of the European Patent Office (EPO), where the official languages are English, French and German.

The existing European patent requires validation of the grant separately in each and every EPO Member State Member State as well a full translation of the patent in the official language of that Member State. The future unitary patent will automatically be valid throughout the territory of the Member States participating in the enhanced cooperation in the (EPO) languages in which it has been granted.

Enhanced cooperation would remain open to non-participating countries, and access to the unitary patent on the territory of participating Member State would also be available to businesses from non-participating Member States.