

# Enhanced cooperation in the area of the creation of unitary patent protection: implementation; translation arrangements

2011/0094(CNS) - 17/12/2012 - Final act

**PURPOSE:** creation of a uniform and simple translation regime for European patents with unitary effect.

**LEGISLATIVE ACT:** Council Regulation (EU) No 1260/2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements.

**CONTENT:** two regulations (the present one and [Regulation \(EU\) n° 1257/2012](#)) were adopted, with a view to implementing enhanced cooperation in the area of the creation of unitary patent protection and the applicable translation arrangements.

**BACKGROUND:** on 10 March 2011, the Council adopted [Decision 2011/167/EU](#) authorising enhanced cooperation between 25 countries - Belgium, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, France, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden and the United Kingdom ("participating Member States") in the area of the creation of unitary patent protection.

On 15 February, the European Parliament approved the establishment of enhanced cooperation. The main obstacle to the creation of unitary patent protection valid in 27 Member States is the lack of unanimity on the choice of the language regime.

This Regulation sets out the applicable translation arrangements for unitary patent protection. The main elements are as follows:

**Translation arrangements:** these are based on the linguistic regime of the European Patent Office (EPO) responsible for issuing European patents, where the official languages are English, French and German. Those arrangements aim to achieve a balance between the interests of economic operators and the public interest, in terms of the cost of proceedings and the availability of technical information.

Without prejudice to transitional measures, where the specification of a European patent, which benefits from unitary effect has been published in accordance with the Convention on the Grant of European Patents (EPC), no further translations shall be required.

In order to facilitate access to unitary patents, in particular for SMEs, applicants will be able to file their patent applications in any official language of the Union.

**Translation in the event of a dispute:** in the event of a dispute relating to an alleged infringement of a European patent with unitary effect:

- the patent proprietor shall provide at the request of an alleged infringer, a full translation of the European patent with unitary effect into an official language of either the participating Member State in which the alleged infringement took place or the Member State in which the alleged infringer is domiciled;
- at the request of a court competent in the participating Member States for disputes concerning European patents with unitary effect, the patent proprietor shall also provide in the course of legal

proceedings a full translation of the patent into the language used in the proceedings of that court. Such translations should not be carried out by automated means and should be provided at the expense of the patent proprietor.

**Machine translations:** in order to promote the availability of patent information and the dissemination of technological knowledge, machine translations of patent applications and specifications into all official languages of the Union are being developed by the EPO.

**During the transitional period,** before a system of high quality machine translations into all official languages of the Union becomes available, a request for unitary effect should be accompanied by:

- a full translation of the specification of the patent into English where the language of the proceedings before the EPO is French or German,
- or into any official language of the Member States that is an official language of the Union where the language of the proceedings before the EPO is English.

Given the state of technological development, the maximum period for the development of high quality machine translations cannot be considered to exceed 12 years. Consequently, the **transitional period should lapse 12 years from the date of application** of this Regulation, unless it has been decided to terminate that period earlier.

ENTRY INTO FORCE: 20/01/2013.

APPLICATION: from 01/01/2014 or from the date of entry into force of the Agreement on a Unified Patent Court, whichever is the later.