EU trade mark

2013/0088(COD) - 26/05/2014

The Council took note of a **Presidency report on the progress made** in the ongoing reform of the Community trademark system. The European Parliament adopted its position in first reading on the draft regulation and the directive on 25 February.

Following the completion of the first technical examination of the Commission proposal for the Regulation in December 2013, the Presidency tabled a compromise proposal, the examination of which was concluded in March 2014. Taking into consideration delegations' comments, the Presidency has recently tabled **two new compromise proposals** concerning both the Regulation and the Directive, which should be treated as a package.

Discussions have shown the existence of **strong support amongst delegations for updating and streamlining the technical provisions of both the proposed Directive and Regulation** with the aim of providing a modern and more legally secure EU and national trade mark system to users.

A wide convergence of views amongst delegations was seen on the majority of issues, such as:

- taking due into account the principles of subsidiarity and proportionality concerning trade mark registration procedures;
- abolishing the requirement of graphical representability of a sign;
- proposed provisions on grounds of non-registrability which could obtain in other Member States than those where the application for registration was filed, or which obtain only where a trade mark in a foreign language is translated or transcribed in any script or official language of the Member State, should be deleted;
- an earlier trade mark cannot be treated as having reputation outside the Member State concerned;
- trade marks should not be registered if they are excluded from registration pursuant to national legislation providing for protection of designations of origin and geographical indications;
- removing the proposed reference to the function of a trade mark as an indication of origin from the “double identity” rule;
- providing for harmonisation as regards trade marks as objects of property at a lower level than the one proposed by the Commission;
- retaining the possibility of ex officio examination of relative grounds by national offices.

A few issues however **remain outstanding and will most likely have to be addressed at a higher political level.** These issues are the following:

- the level of harmonisation of national procedures;
- the extension of rights with regard to goods brought into the customs territory (“transit” issue);

- the extent of the proposed recourse to delegated acts;

- the funding by OHIM of future cooperation between OHIM and national trademarks offices and the use of OHIM's budgetary surpluses.

- the future governance of the Office for Harmonisation in the Internal Market (OHIM), the modalities of future cooperation between OHIM and national trade mark offices, including the funding of such cooperation by OHIM, the use of the OHIM budgetary surpluses and the amount of fees.

The Presidency aims to intensify the efforts to reach an agreement within the Council on the whole package by the **end of the first semester 2014.** The Council instructed its preparatory bodies to take the work forward.