



# *Sources of Patent Law in EU from the EPC to the Patent with Unitary Effect*

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**Course on: EU Innovation Law and Policy**

# The two sources of Law

## European Patent Convention

- International Treaty signed by 16 European countries in 1973 (today contains 39 members, also non European like UK);
- It's not an Institution of the EU;
- Instituted the EPO (European Patent Office).

## Unitary Patent Package (UP Regulations and UPCA)

UP package:

**European regulations** on enhanced cooperation adopted on 17 December 2012;

**AGREEMENT on a Unified Patent Court** (2013/C 175/01)

## Overview of the European system.

- European Patent Convention (EPC) = international Treaty signed by almost all European countries (but it is not an EU legislation).
- European patent value = bundle of national patents;
- European patent applications may be filed at the EPO at Munich, its branch at The Hague, its sub-office in Berlin (however not in Vienna) or, if the law of a contracting state so permits, at the central industrial property office or other competent authority of that state;
- Necessity to validate protection in the countries indicated by the applicant as soon as the European patent is granted;
- The European patent becomes to all intents and purposes a national patent.

# Outlines of the European patent with unitary effect.

## The unitary patent legislative package:

- **European regulations** on enhanced cooperation adopted on 17 December 2012:
  - EU Regulation 1257/2012 on unitary patent protection (UPP)
  - Council Regulation (EU) No 1260/2012 of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements;
- **AGREEMENT on a Unified Patent Court** (2013/C 175/01)

# Outlines of the European patent with unitary effect.



The system of the **European patent with unitary effect** and the **Unified Patent Court**:

- launched on 1 June 2023;
- single renewal fee («simpler and less expensive for inventors»);
- uniform protection across all participating countries (25 Member States);
- UPC → central division, regional divisions and local divisions;
- Court of Appeal → Luxembourg

## European patent with unitary effect or Unitary Patent

- “Before a Unitary Patent can be registered by the EPO, the applicant must first obtain a European patent. A European patent application must therefore be filed and processed under the EPC.
- Once a European patent has been granted, the proprietor must file a "request for unitary effect" at the EPO to obtain a Unitary Patent. The request must be filed within one month of the date of publication of the mention of the grant in the European Patent Bulletin.
- To be eligible for registration as a Unitary Patent, the European patent must have been granted with the same set of claims in respect of all the 25 Member States participating in enhanced co-operation.”

Da: <https://www.epo.org/en/applying/european/unitary/unitary-patent/applying>

## Mandatory information to be provided in the request for unitary effect

The request for unitary effect must contain the following information (Rule 6(2) UPR):

- (a) particulars of the proprietor of the European patent making the request as provided for in Rule 41(2)(c) EPC;
- (b) the number of the European patent to which unitary effect is to be attributed;
- (c) where the requester has appointed a representative, particulars as provided for in Rule 41(2)(d) EPC.