



**Europäische
Patent-
organisation**

Verwaltungsrat

**European
Patent
Organisation**

Administrative Council

**Organisation
européenne des
brevets**

Conseil d'administration

Number:
SC/11/24

Original:
en

Date:
20.09.2024

Category:
Public

TITLE:

Request for observer status

SUBJECT:

Request for observer status by the Unified Patent Court

SUBMITTED BY:

Chairperson of the Select Committee

ADDRESSEES:

Select Committee of the Administrative Council (for decision)

MAJORITY:

Simple

LEGAL BASIS:

Article 6 (3) of the Rules of Procedure of the Select Committee

RECOMMENDATION:

The Select Committee is requested to grant observer status to the Unified Patent Court.

SUMMARY:

The attached is the official request by the Unified Patent Court (UPC) for observer status on the Select Committee. The UPC's request is based on the shared matters of common interest among the UPC, EPO, and the Select Committee and the existing excellent co-operation between the UPC and the EPO. It also reflects the reciprocity between the observer status of the EPO in the UPC's Administrative and Budget Committees and the UPC in the Select Committee.

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1. Background

1. The Unitary Patent (UP) system officially entered into operation on 1 June 2023, providing uniform protection across 18 participating countries with a single request. The UP regulations were complemented by the Agreement on a Unified Patent Court (UPC), an international agreement signed by most EU member states in February 2013.
2. On the basis of Art. 9(2) Regulation (EU) No 1257/2012, the Select Committee has been set up by the 25 member states that initially participated in the enhanced co-operation in the area of Unitary Patent protection, to ensure the governance and supervision of the European Patent Office (EPO)'s activities related to the tasks entrusted to it in the context of unitary patent protection.
3. The European Commission has been an observer in the Select Committee as of the start. Moreover, Article 6 (3) of the Rules of Procedure of the Select Committee lays down that: "The Select Committee may invite other observers to participate in its meetings. Unless the Select Committee decides otherwise in a particular case, representatives of other observers may participate in meetings or in part of meetings of the Select Committee which do not relate to confidential agenda items (Article 8(3))". This Article mirrors the principle enshrined in Article 30 EPC relating to observers in the Administrative Council of the European Patent Organisation.
4. The Select Committee has received several requests from EPC contracting states that do not participate in the enhanced cooperation, as well as epi and BUSINESSEUROPE which were all supported by the Select Committee.

2. Arguments

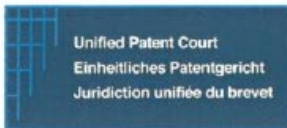
5. The UPC is requesting by attached letter to be admitted as observer in the Select Committee.
6. The UPC was established as a specialised court for patent litigation, centralising patent disputes and simplifying the enforcement of European patents and Unitary Patents in Europe.
7. While remaining fully independent from each other in the execution of their tasks, the collaboration between the EPO and the UPC's Preparatory Committee and later the UPC's Administrative and Budget committees, as well as the UPC itself, has developed over the years.
8. Since October 2021, the Chairperson of the Preparatory Committee of the UPC, and Registrar of the UPC since 2023, regularly report to the Select Committee about the latest developments of the UPC, as a dedicated agenda item. Based on a reciprocal practice, the EPO provides updates related to the Unitary Patent in UPC governing bodies and has been granted the observer status in the UPC's Administrative and Budget Committee.

3. Financial implications

9. Not applicable

4. Documents cited

10. SC/D 1/13.



Luxembourg, 19 June 2024

Jérôme Debrulle
Chair of the Select Committee of the Administrative Council
SPF Economie – DG de la réglementation économique
50 rue du Progrès
1210 Bruxelles
BELGIUM

Subject: Request for admission of the Unified Patent Court as observer in the Select Committee of the Administrative Council

Dear Mr Debrulle,

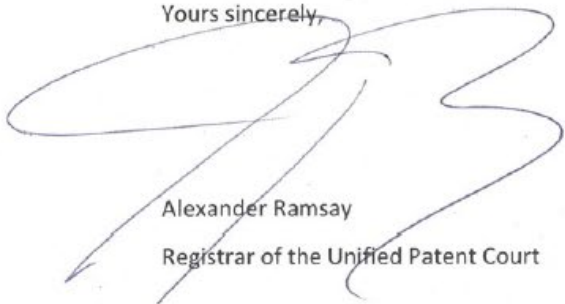
dear Jérôme,

The Unified Patent Court (UPC) formally requests to be admitted as an observer in the Select Committee under Article 6(3) of the Committee's Rules of Procedure.

The UPC is an international court having, inter alia, jurisdiction over European patents and European patents with unitary effect. As highlighted by the EPO's observer status in the UPC's governing bodies, the UPC, the EPO and in particular the Select Committee share matters of common interest and have a track record of excellent co-operation as illustrated by the Agreement between the EPO and the UPC.

I thank you in advance for your consideration of this request.

Yours sincerely,



Alexander Ramsay
Registrar of the Unified Patent Court

Court of Appeal and Registry | Luxembourg | 1, rue du Fort Thüngen, L-1499 Luxembourg