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For a Democratic Innovation Policy in Europe

## VOTING LIST

### DRAFT OPINION

on the proposal for a regulation of the European Parliament and of the Council implementing enhanced cooperation in the area of the creation of unitary patent protection

**2011/0093(COD)** - ITRE/7/006388

**PA/PE** PE472.085v01-00 – **AM/PE** 473.869v01-00/11-60

*Rapporteur of the opinion:* Alajos Mészáros

**APRIL** – [www.unitary-patent.eu](http://www.unitary-patent.eu)



Text	Am No	By	Comments	Justification	Position Rapp.	Our position	Vote
ARTICLES							
<b>Article 1 – paragraph 2</b>	<b>24</b>	Lamberts		<b>A regulation cannot constitute a special agreement</b>	-	+++	-
Article 3 – paragraph 1 – subparagraph 2 a (new)	25	Lamberts		Substantive patent law should be defined and clarified by the EU legislator	-	++	-
Article 3 – paragraph 1 a (new)	26 30	Lamberts Gierek	AM 26 includes AM 30	Substantive patent law should be defined and clarified by the EU legislator  Actually Am. 30 miss the exclusion of computer programs from patentability, should be rejected if voted as such	-	++	-
Article 3 – paragraph 1 b (new)	27	Lamberts		Clearly excludes software patents	-	+++	-
<b>Article 3 – paragraph 2 – subparagraph 1</b>	<b>28</b>	Lamberts		<b>Art. 118.1 TFUE should be respected as the legal basis of this regulation</b>	-	+++	-
<b>Article 3 – paragraph 2 – subparagraph 1 – point a (new)</b>	<b>29</b>	Lamberts		<b>The autonomy of unitary patents should be reaffirmed with legal certainty</b>	-	+++	-
Article 3 – paragraph 2 – subparagraph 2	3	Rapporteur		No reason to have no unitary effect wrt licensing	+	-	+
Article 3 – paragraph 2 – subparagraph 2 a (new)	4	Rapporteur		No reason to have no unitary effect wrt licensing	+	-	+
Article 4 – paragraph 1	31	Gierek		Transition period before coming into effect allows more scrutiny	+	+	+



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Article 5	5	Rapporteur		Art. 5 would conflict with EPC 2000	+	+	+
Article 6 – paragraph 1 – introductory part	32	Bendtsen	<u>Vote in bloc</u>	Editorial amendments	+	0	+
Article 7 – paragraph 1	33	Bendtsen	AM: 32, 33				
Article 8 – paragraph 1	6	Rapporteur		Primacy of EU law	+	++	+
Article 8 – paragraph 1 – point a (new)	34	Lamberts		Primacy of EU law	-	++	-
Article 8 – paragraph 1 – point b a (new)	35	Reul		Limits patentability of biotech	+	+	+
Article 8 – paragraph 1 – point e	36	Gierek		Limits exception for guest vessels to not commercial purposes	-	+	-
Article 8 – paragraph 1 – point h	37	Reul		Legal certainty of biotech exception	+	+	+
Article 8 – paragraph 1 – point i	38	Reul		Legal certainty of biotech exception	+	+	+
	39	Gierek	Falls if AM 38 adopted	Clear distinction between commercial activity and farmer's own agricultural activity	-	+	F
Article 12 – paragraph 1 – introductory part	40	Lamberts		Like Am. 24 and primacy of EU law	-	+++	-
Article 12 – paragraph 2	41	Lamberts		Like Am. 24 and better role for EP (could eventually be splitted, deletion of ref. To Art. 145 EPC is mandatory)	-	+++	-
Article 12 – paragraph 3	42	Lamberts		Mandatory recourse against any EPO decision	-	+++	-



Text	Am No	By	Comments	Justification	Position Rapp.	Our position	Vote
Article 13 – paragraph 1	43	Gierek		Better definition of redistribution of fees	-	+	-
Article 14 – paragraph 1	44	Gierek		Better definition of redistribution of fees	-	+	-
Article 15 – paragraph 1 – point c	45	Gierek		EPO's budget is no EU matter	-	+	-
Article 15 – paragraph 1 – point c a (new)	46	Ticau		Fees adapted to SMEs	+	+	+
Article 15 – paragraph 2 – introductory part	47	Gierek		Better definition of redistribution of fees	-	+	-
Article 15 – paragraph 2 – point b a (new)	48	Rohde	<u>Split vote requested by EPP</u>	Fees adapted to SMEs	+	+	+
			<u>1st part:</u> "taking into account.. .2003/361/EC"		-	+	-
			<u>2nd part:</u> " in the form of lower fees"				



Text	Am No	By	Comments	Justification	Position Rapp.	Our position	Vote
	7	Rapporteur	Falls if AM 48 adopted  <u>Oral Amendment by EPP:</u>  (ba) taking into account the specific situation of small and medium-sized enterprises <i>in the form of lower-fees</i> ,	Fees adapted to SMEs	+	+	+
Article 16 – paragraph 1	49	Gierek		Better definition of redistribution of fees	-	+	-
Article 16 – paragraph 2 – introductory part	50	Gierek		Better definition of redistribution of fees	-	+	-
Article 16 – paragraph 2 – point b	8	Rapporteur		Minimum amount for each MS	+	+	+
Article 16 – paragraph 3	51	Gierek		Clarifies use of fees	-	+	-
Article 17 – paragraph 1	52	Lamberts		Clarifies scope of delegated acts	-	+	-
Article 17 – paragraph 5 a (new)	53	Gierek		Enhances EP scrutiny of delegated acts	-	++	-
Article 17 – paragraph 5 b (new)	54	Gierek		Enhances EP scrutiny of delegated acts	-	++	-



Text	Am No	By	Comments	Justification	Position Rapp.	Our position	Vote
Article 18 paragraph 1	9	Rapporteur		Better cooperation with NPOs	+	+	+
Article 19 paragraph 1	55	Lamberts		Primacy of EU law	-	++	-
Article 20 paragraph 1	CA2	<b>EPP, S&amp;D, ALDE, ECR</b>	<b>AMs falling: 10, 56, 57, 58, 59</b>	Better role for EP and shorter period for review of the regulation	+	+	+
	57	Lamberts	Falls if CA 2 adopted	Better role for EP and shorter period for review of the regulation		+	F
	56	Balcytis	Falls if CA 2 adopted Falls if AM 57 adopted	Better role for EP and shorter period for review of the regulation		+	F
	10	Rapporteur	Falls if CA 2 adopted Falls if AM 57 or 56 adopted	Better role for EP and shorter period for review of the regulation		+	F
	58	Ticau	Falls if CA 2 adopted Identical to AM 10. No vote				F



Text	Am No	By	Comments	Justification	Position Rapp.	Our position	Vote
	59	Gierek	Falls if CA 2 adopted Falls if AM 57 or 56 adopted  Vote in addition to AM 10	Shorter period for review of the regulation		+	F
Article 22 – paragraph 4	60	Rapporteur	Withdrawn	W	W	W	W
Recitals							
Recital 1	11	Lamberts		Clarifies role of patent dissemination for knowledge	+	+	+
Recital 5	12	Gierek		Allows unitary effect to be filed through NPOs	-	+	-
Recital 7	1	Rapporteur		No reason to have no unitary effect wrt licensing	+	-	+
Recital 10	13	Gierek		Clarifies exceptions to patentability	-	++	-
Recital 15	14	Gierek		Clarifies delegation of powers to the EPO	-	+	-
Recital 16	CA1	<b>EPP, S&amp;D, ALDE, ECR</b>	<b>AMs falling: 2, 15, 16, 17, 18</b>	Implies the setup of a selected committee, which is not allowed by Treaties	+	--	+
	15	Tsoukalas	Falls if CA 1 adopted	Fees adapted to SMEs		+	F



Text	Am No	By	Comments	Justification	Position Rapp.	Our position	Vote
	2	Rapporteur	Falls if <b>CA 1</b> adopted Vote in addition to AM 15	Implies the setup of a selected committee, which is not allowed by Treaties		--	F
	16	Jens Rohde	Falls if <b>CA 1</b> adopted Vote in addition to AM 15 or 2	Fees adapted to SMEs		+	F
	17	Ticau	Falls if <b>CA 1</b> adopted Falls if AM 15, 2 or 16 adopted	Fees adapted to SMEs		+	F
	18	Gierek	Falls if <b>CA 1</b> adopted Vote in addition to AM 15, 2, 16, 17	Clarifies that fees should cover actual costs		+	F
Recital 17	19	Gierek		Better scrutiny wrt level of fees	-	+	-
Recital 18	20	Mészáros		Better definition for the use of fees	+	+	+
	21	Gierek	Falls if AM 20 adopted	Clarifies use of fees by deleting legally uncertain criterion	-	+	F



Text	Am No	By	Comments	Justification	Position Rapp.	Our position	Vote
Recital 19	22	Gierek		Includes delegation of powers to Commission for negotiations with the EPO	-	+	-
Recital 20	23	Gierek		Clarifies cooperation between EPO and NPOs	-	+	-
<b>Final vote</b>	<b>For:</b>	<b>Against:</b>	<b>Abstention:</b>	Ams 24, 28 & 29 are mandatory for compliance with Treaties and EU oversight of the patent policy, the regulation should be rejected if these amendments are not adopted	+	<b>- if Ams 24, 28 &amp; 29 are rejected / + if Ams 24, 28 &amp; 29 are voted</b>	+