

Report of the Preparatory Committee meeting held on 27 October 2021

28 October 2021

The 21st UPC Preparatory Committee was held in Luxembourg on 27 October 2021 in a hybrid format, with a solid onsite and remote participation. The choice of format provided delegations with the needed flexibility in the current context of the COVID-19 pandemic.

The Chairman briefed the delegations in relation to the status of ratification of both the UPC Agreement (UPCA) and the Protocol on the Provisional Application of the UPC Agreement (PAP-Protocol), congratulating the Republic of Slovenia on their recent ratification of both instruments. The Chairman emphasised that 12 Member States now have adhered to the PAP-Protocol and that only one more is needed to meet the requirements of the entry into force. From the discussions it can be concluded that it is likely that the requirements will be met by the end of the year.

The Chairman took the occasion to highlight that the Protocol on Privileges and Immunities has entered into force as of the day of the meeting, 27 October 2021.

The Chairman presented a draft Declaration on the authentic interpretation of Art. 3 of the PAP-Protocol, following the United Kingdom's withdrawal from the Unitary Patent System. In line with public international law, this Declaration will confirm the entry into force of the PAP-Protocol, once the required 13 Member States become bound by said Protocol, recognizing that Art. 3 of the PAP-Protocol is to be interpreted as mirroring Art. 89 of the UPCA. The delegations supported the approach proposed by the Chairman, hence giving him the mandate to organize a signing ceremony of the Declaration, foreseen in the margins of a future COREPER meeting.

The meeting also served an informational purpose providing the delegations with a general overview of the roadmap for the Phase of Provisional Application (PAP) and some more detailed elements delivered by the working groups' coordinators of the Interim Team. This team was set up in 2016 by the Chairman with the goal to bridge the gap between the decisions taken by the Preparatory Committee (such as the approval of secondary legislation) and the UPC's start of operations.

In particular, the delegations took note of the various works taking place in relation with the finalization of the Case Management System of the Court (including some minor adjustment to the Rules of Procedure and Rules governing the Registry). In addition, an update of the IT framework of the Court was presented to delegations, which included an illustration of the expected complementary roles of the central and the local IT teams to be set up in each division. Delegations were also reminded of the previously discussed specifications for facilities and IT equipment to be provided by hosting Member States for the proper functioning of the Court's divisions. From an HR perspective, the framework for both the hiring of judges and the local selection of administrative support staff was discussed. Finally, delegations were informed about the current draft budget for the PAP, including a preliminary evaluation of the contributions by Member States, which will be called for shortly after the start of the PAP.

On a general note, delegations confirmed their continuous support for the Unitary Patent System before expressing their eagerness for the start of the PAP, currently expected for late 2021 or early 2022.

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