

Statement of the Confederation regarding the Public Consultation on the fee structure for the Unified Patent Court

The Confederation of Industry of the Czech Republic, as the biggest employers' association in the Czech Republic, welcomes the opportunity to comment on the document Rules on Court fees and recoverable costs.

The Confederation considers the proposed level of fees and recoverable costs for Czech companies as too high.

The European patent system has already been for a number of Czech corporations and entities on the edge of financial sustainability. Quite often, they do not possess sufficient funds to cover patent protection and renewal fees. Nevertheless, many subjects undergo this process keeping in mind the prospect of strong legal protection for their innovative solutions and patents. Assuming the approval of the proposed fees and costs, patenting will become for our businesses completely meaningless. The consequence of the introduction of high fees will not be better accessibility of the protection of the rights of our inventors, but rather creation of an arena for the "activities" of economically stronger multinational corporations.

The objective of the proposal, as stated in the document, is to minimize the number of patent disputes. Nevertheless, the primary focus should be the available protection for the results of research and development, accompanied by the guarantee of sufficient legal certainty and the chance to get relevant return on investment to protection.

The proposed scale of fees practically constraints subjects from less economically developed EU member states from the effective defense of their rights. Their access to the judicial system for patents would be significantly hampered. It is not only the concern for small and medium sized enterprises, but also for bigger corporations in the Czech Republic, which do not have sufficient financial resources. The proposed system would complicate the implementation of the Entrepreneurship 2020 Action Plan, its main objective being the promotion of intensive level of development of small and medium-sized enterprises in the EU.

Apart on what has been already mentioned, the Confederation of Industry of the Czech Republic would like to submit three specific comments, as follows:

a) In part A - an amendment to the Rule 370 of the Rules of Procedure, the Confederation urges for Alternative 2, which reduces the level of the fees for small and medium-sized enterprises and other defined subjects. Even now, e.g. the costs for legal services are already quite burdensome for these businesses.

b) The Confederation of Industry of the Czech Republic calls for a reduction of court fees, particularly the fee for the revocation action, which is proposed EUR 20 000. Taking into account the current regulations, if the subject wants to revoke a European patent in the Czech Republic, the fee is approximately 200 times lower.

c) The Confederation demands a significant reduction of the ceiling for recoverable costs of representation by the losing party in case of patent infringement (Section C). The Confederation of Industry of the Czech Republic considers proposed limit of between EUR 50 000 to EUR 3 000 000 as a destructive condition. If the company failed in a dispute over patent infringement (typically if it violates patent unintentionally), it must be able to cover the costs without going bankrupt (the costs therefore cannot go beyond the availability of its financial resources).

Prague, July 31, 2015