



**COUNCIL OF  
THE EUROPEAN UNION**

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**LIMITE**

**PI 108  
COUR 48**

**CORRIGENDUM TO NOTE**

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from: Presidency  
To: Friends of the Presidency Group  
Prev. doc.: 11533/11 PI 68 COUR 32  
Subject: Draft agreement on a Unified Patent Court and draft Statute  
- Revised Presidency text

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Following the meeting of the Friends of the Presidency Group on 9 September 2011, delegations will find in the Annex a number of further amendments to the draft agreement proposed by the Presidency for discussion at the Friends of the Presidency Group meeting on 16 September 2011.

- a) On page 7, recital 1 should read as follows :

"(1) CONSIDERING that co-operation amongst the Member States of the European Union in the field of patents contributes significantly to the integration process in Europe, in particular to the establishment of an internal market within the European Union characterized by the free movement of goods and services and the creation of a system ensuring that competition in the internal market is not distorted,"

- b) On page 10, Article 2 should begin with the words :

"For the purposes of this Agreement:"

- c) On page 11, Article 2, point 9, should read as follows :

"(9) "Supplementary protection certificate" means a supplementary protection certificate granted under Regulation (EC) No 469/2009<sup>1</sup> or under Regulation (EC) No 1610/96<sup>2</sup>."

- d) On page 13, Articles 6(2) and (2a) should read as follows :

"(2) Without prejudice to paragraph 2a of this Article any panel of a local division shall sit in a composition of two permanent legally qualified judges, who shall be nationals of the Contracting Member State hosting the local division concerned, and one legally qualified judge from the Pool of Judges referred to in Article 13, serving at the local division on a long term basis.

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<sup>1</sup> Regulation (EC) No 469/2009 of 6 May 2009 concerning the supplementary protection certificate for medicinal products, OJ L 152, 16.6.2009, p.1.

<sup>2</sup> Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary certificate for plant protection products, OJ L 198, 8.8.1996, p.30.

(2a) Any local division in a Contracting Member State where, during a period of three successive years, less than fifty cases per year have been commenced, shall sit in a composition of one legally qualified judge who is a national of the Contracting Member State hosting the local division concerned and two legally qualified judges who are not nationals of the Contracting Member State concerned and are allocated from the Pool of Judges on a case by case basis."

e) On page 18, Article 14b(2) should read as follows :

"(2) In accordance with Article 267 of the TFEU, when a question of interpretation of the TEU or the TFEU or on the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union is raised :

- a) before the Court of First Instance, the latter may, if it considers this necessary to enable it to give a judgment, request the Court of Justice of the European Union to give a ruling thereon;
- b) before the Court of Appeal, the latter shall bring the matter before the Court of Justice of the European Union.

Such decisions of the Court of Justice of the European Union shall be binding on the Court of First Instance and on the Court of Appeal."

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