

Dear sir/madam,

I have a very short point to make concerning the balance of competences review. I have recently been involved in a project funded by the UK IPO concerning the Unified Patent Court (UPC), which is an EU initiative. This involved canvassing the views of the business and legal communities on the UPC. Several of them argued that the way the EU made its decision to bring in the UPC did not properly take account of (1) economic analysis or (2) the real needs of businesses.

Regarding subsidiarity, the key point here is that in the Regulations the EU states that it the UPC is in accordance with subsidiarity because a unified patent system cannot be brought in at any level other than at the centralised EU level - the current patent system is fragmented along national jurisdictional boundaries. That only the EU could create a unified patent system for Europe is self-evidently true; the real question for businesses is whether, in fact, a unified system is really necessary in Europe from the economic perspective. Several interviewees were not convinced that they needed patent protection in all 28 MS; indeed, many said that protection in the 3-4 largest states (Germany, France, UK + one of Sweden, Spain or the Netherlands) was often sufficient for their business needs.

My report is out on the 9th July and will be accessible via the IPO website.

Best wishes

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