



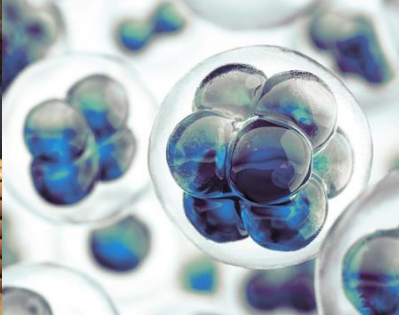
Europäisches  
Patentamt  
European  
Patent Office  
Office européen  
des brevets

# The Unitary Patent package

An introduction to the new system and latest update



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# Objectives of the Unitary Patent package



**Cost-effective option  
for broader patent  
protection and  
dispute settlement  
across Europe**



Providing better value with reduced complexity



Facilitating access to patent protection for SMEs, universities and public research Centres



Making Europe more attractive for innovation and investors



Boosting Europe's competitiveness

# Legal basis of Unitary Patent

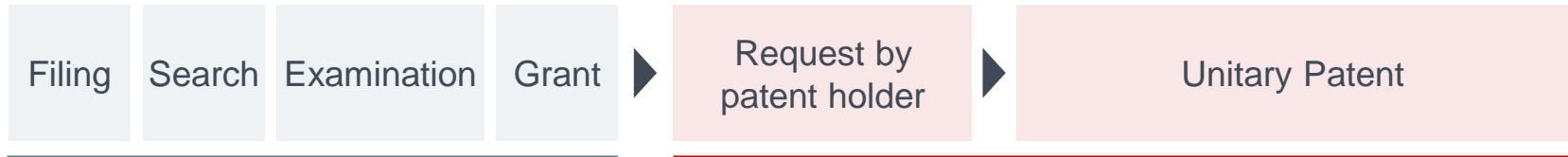
- **20 January 2013**: Entry into force of the Regulations for the 25 participating Member States
  - **Regulation (EU) No. 1257/2012** of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection
  - **Regulation (EU) No. 1260/2012** of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements
- Regulations apply as of the date of the entry into force of the Agreement on a Unified Patent Court (UPC Agreement)

# Agreement on Unified Patent Court (UPC Agreement)

- **UPC Agreement** was signed on 19 February 2013 by 25 EU Member States (not by Croatia, Poland and Spain)
- It will **enter into force** after the deposit of the 13th instrument of ratification or accession, including France, Germany and Italy
- **16 states have ratified the UPC Agreement so far:** AT: 7.8.2013, FR: 14.3.2014, SE: 5.6.2014, BE: 6.6.2014, DK: 20.6.2014, MT: 9.12.2014, LU: 22.5.2015, PT: 28.8.2015, FI: 19.1.2016, BG: 3.6.2016, NL: 14.9.2016, IT: 10.2.2017, EE: 1.8.2017, LT: 24.8.2017, LV: 11.1.2018, UK: 26.4.2018 (ratification withdrawn with effect as from 20.7.2020), SI: 15.10.2021



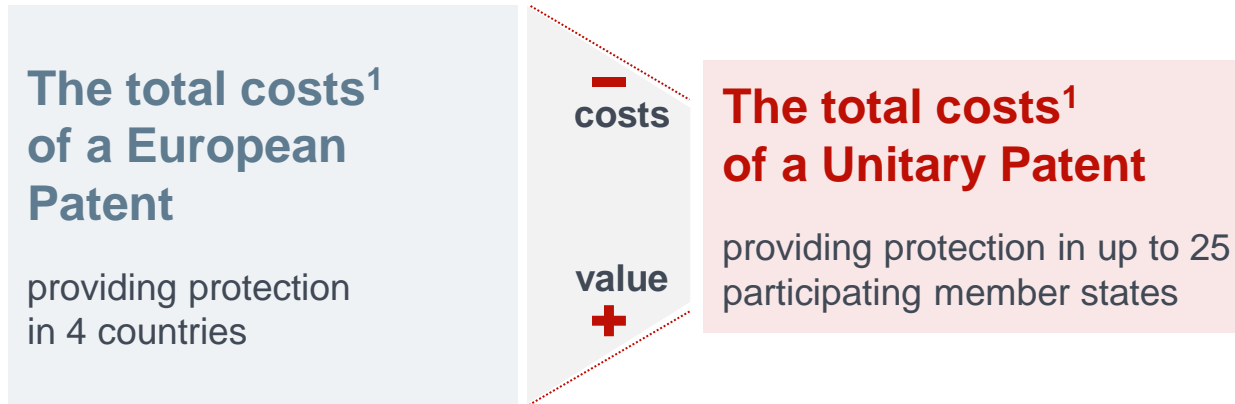
# The Unitary Patent: basic concept



- The **Unitary Patent** is a "European patent with unitary effect"
  - It has **unitary character** and shall provide **uniform protection**, and shall have **equal effect in all the participating EU member states**
  - A European patent will benefit from unitary effect **at the request** of the proprietor: post-grant attribution of unitary effect
  - Single EPC procedure for European and "Unitary Patents"
- **EPC proceedings, incl. opposition and appeal proceedings remains unchanged**

# Reduced costs

- No fees are charged by the EPO for the purpose of obtaining a Unitary Patent
- Attractive fee level with annual fees for maintaining a Unitary Patent for ten years – the current average lifetime of a European patent – amounting to less than EUR 5 000
- Based on a comparison of fees and all associated costs, a Unitary Patent will on average be significantly less expensive than a European patent validated and maintained in four countries



<sup>1</sup> Direct costs of the renewal fees + associated indirect costs arising from validating and maintaining a European patent in all countries.

# Unitary Patent: Cost efficiency thanks to simplification

Classic European patent  
Multiple national post-grant  
administration procedures

## National patent offices



- Translation requirements
- National validation fees
- Procedures
- Renewal fees
- Currencies

Requiring your own local attorney

## Unitary Patent

One-stop-shop at the EPO for all  
post-grant administration

## One office



- Simplified translation regime
- No fee for obtaining a Unitary Patent
- One procedure
- One set of renewal fees
- One currency (€)
- One Register

Your European patent attorney

# The Unitary Patent: basic concept

- The Unitary Patent will co-exist with national patents and classical European patents
- Various combinations of classical European patent and Unitary Patent:
  - a Unitary Patent for the participating EU member states, together with
  - a classical European patent taking effect in one or more EPC contracting states not covered by the unitary patent
- **Effect:** unitary patent takes effect **retroactively** in the participating EU member states as from the date of publication of the mention of grant of the European patent



# Unitary Patent: Translation arrangements

- Builds on **EPO language regime** (Article 14(6) EPC).
- No further translations required after transitional period, unless a legal dispute arises.
- Reliance on high-quality **machine translations**
  - for applications and specifications
  - to be available for free in all EU official languages
  - for information only (no legal effect)



# Requirements for the registration of unitary effect (1/2)

## Substantive requirements

Unitary effect can be requested for European patents that were granted

- on or after the date of entry into operation of the Unitary Patent package
- in respect of all 25 participating EU Member States, and
- with the same set of claims for all of them

# Requirements for the registration of unitary effect (2/2)

## Main procedural requirements

Filing of the request by the patent owner

- in writing in the language of the proceedings
- no later than one month after the mention of the grant is published in European Patent Bulletin
- containing the following elements:
  - particulars of the requester, number of the European patent to which unitary effect shall be attributed, information regarding the representative and translation of the European Patent (only during a transitional period)
  - a full **English** translation if the patent is **granted in French** or **German**, or
  - a full translation into **any language of the EU** if the patent has been **granted in English**

# Registration of unitary effect

- New forms will be available
  - Use of trilingual EPO FORM 7000 highly recommended (not mandatory) when filing request
  - Advisable to carefully read explanatory notes to Form 7000
- Online filing tools (OLF, OLF2.0 and web-form filing) available

**Antrag auf einheitliche Wirkung / Request for unitary effect / Demande d'effet unitaire**

1. **Angaben zum Patent (Regel 6 (2) in COEPE) / Data concerning the patent (Rule 6(2) EPC) / Données concernant le brevet (règle 6(2) RPU)**

1.1 Nummer des europäischen Patents / European patent no. / Numéro du brevet européen

1.2 Nummer der europäischen Anmeldung / European application no. / Numéro de la demande européenne

1.3 Tag des Hinweis auf die Erteilung / Date of mention of the grant / Date de la mention de la délivrance

1.4 Zitiert den Patentabstrakt oder Verfahren (max. 15 Zeichen) / Proprietary or representative reference (max. 15 characters) / Référence au résumé du brevet ou du procédé (max. 15 caractères)

1.5 Das europäische Patent wurde mit den folgenden Möglichkeiten für die teilnehmenden Mitgliedsstaaten erfasst (Regel 5 (2) COEPE) / European patent has been granted with the same set of claims in respect of all participating member States (Rule 5(2) EPC) / Le brevet européen a été délivré avec le même jeu de revendications pour tous les États membres participants (règle 5(2) RPU)

2. **Antrag / Request / Demande**

2.1 Hiermit wird einheitliche Wirkung für das vorstehend genannte Patent beantragt / I hereby request uniform effect for the above-mentioned patent to be granted / Un effet unitaire est demandé pour le brevet susmentionné.

2.2 Hiermit wird die Kompensation von Übersetzungskosten für die Regeln 6 (2) EPC, die unter bestimmten Umständen, die in den jeweiligen nationalen Gesetzen festgelegt sind, für die Übersetzung des ursprünglichen Antrags erforderlich sind, beantragt / I hereby request compensation for translation costs in respect of the rules 6 (2) EPC, which apply in certain circumstances provided for in the national laws of the participating member States, for the translation of the original application / Le coût des dépenses de traduction des revendications du brevet est demandé en vertu de l'article 6 (2) de la Convention européenne de la propriété intellectuelle.

2.2.1 Es wird beantragt, die Kompensation per Check zu zahlen. / I request that the compensation be paid by check. / Il est demandé que la compensation soit versée par chèque.

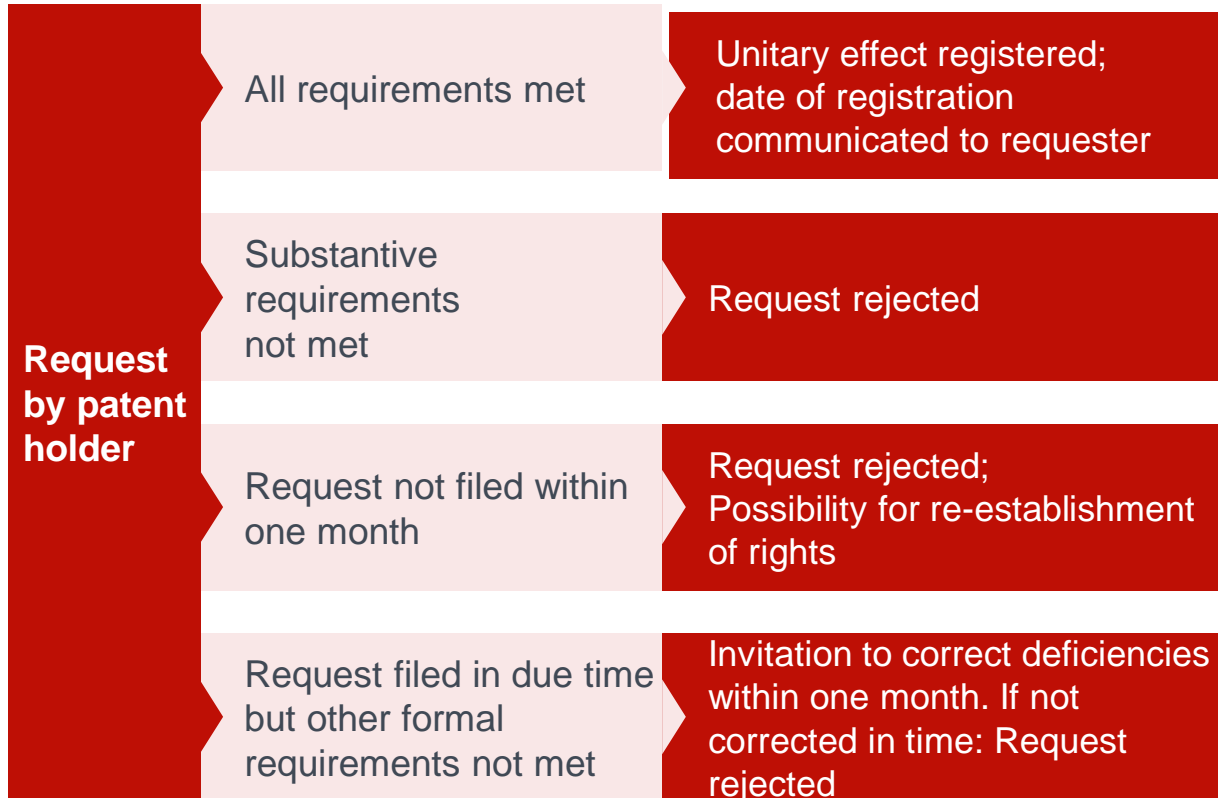
2.2.2 Es wird beantragt, die Kompensation per Scheck zu zahlen. / I request that the compensation be requested by check. / Il est demandé que la compensation soit versée par chèque.

3. **Übersetzung / Translation / Traduction**

3.1 Vertretersprache ist Englisch. Eine Übersetzung des europäischen Patents in einer der anderen Amtssprachen der Europäischen Union (Regel 6 (2) COEPE) beantragt. / Language of proceedings is English. A translation of the European patent into one of the other official languages of the European Union (Rule 6(2) EPC) is requested. / La langue de la procédure est l'anglais. Une traduction du brevet européen dans une des autres langues officielles de l'Union européenne (règle 6(2) RPU) est demandée. / A savoir dans la langue suivante:

3.2 Vertretersprache ist Deutsch oder Französisch. Eine Übersetzung des europäischen Patents in Englisch (Regel 6 (2) COEPE) ist beantragt. / Language of proceedings is French or German. A translation of the European patent into English (Rule 6(2) EPC) is requested. / La langue de la procédure est le français ou l'allemand. Une traduction est demandée du brevet européen (règle 6(2) RPU) est faite.

# Examination of request for unitary effect



# Transitional measures before the start of the Unitary Patent (1/2)

- EPO provides two **transitional measures** to support users in an early uptake of the Unitary Patent
  - **Early request for unitary effect** (OJ EPO 2022, A6)
    - The EPO will allow applicants to file requests for unitary effect already before the start of the Unitary Patent system, so that unitary effect can be registered immediately at the start of the system.
  - **Request for a delay in issuing the decision to grant** (OJ EPO 2022, A4/A5)
    - The EPO will provide the possibility to request a delay in issuing the decision to grant a European patent, so that users do not miss the opportunity to obtain a Unitary Patent.
- The two measures are interrelated but separate from each other from a procedural perspective.

## Transitional measures before the start of the Unitary Patent (2/2)

- They will apply only for a **transitional period of 3-4 months** (“sunrise period”) after the deposit of the UPC Agreement ratification instrument by DE. They will stop as of the entry into force of the UPC/UPP.

<https://www.epo.org/law-practice/unitary/unitary-patent/transitional-arrangements-for-early-uptake.html>

# Unitary Patent: Territorial scope

Unitary effect is possible for all Member States participating in enhanced cooperation and for which the UPCA has entered into force at the date of registration of unitary effect

*Expected 17 States: AT, BE, BG, DE, DK, EE, FI, FR, IT, LT, LV, LU, MT, NL, PT, SE, SI*  
*(UPCA not ratified: CY, CZ, GR, HU, IE, RO, SK)*

- Different generations of Unitary Patents with a different territorial coverage in the first years
- No extension of the territorial coverage to other participating Member States which ratify the UPCA after the registration of unitary effect
- Territorial coverage will be indicated in the Register for unitary patent protection



At least 17 states at the launch of the new system

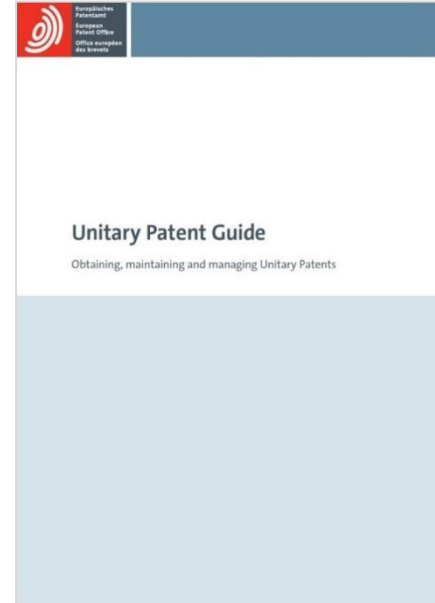


25 states participating in enhanced cooperation



# Unitary Patent Guide

- Provides companies, inventors and their representatives with an outline of the procedure involved in obtaining a Unitary Patent
- Deals also with the accessory procedures relating to Unitary Patents (e.g. compensation scheme for translation costs, registering a statement on licences of right) and gives overview of the rules on how to pay renewal fees for Unitary Patents
- Available at: [www.epo.org/law-practice/unitary/unitary-patent/unitary-patent-guide.html](http://www.epo.org/law-practice/unitary/unitary-patent/unitary-patent-guide.html)



# The Unified Patent Court (UPC) in a nutshell



Newly created international court with jurisdiction for infringement and revocation actions relating to both Unitary Patents and classical European patents

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The UPC will employ specialised patent judges and will apply its own procedural law

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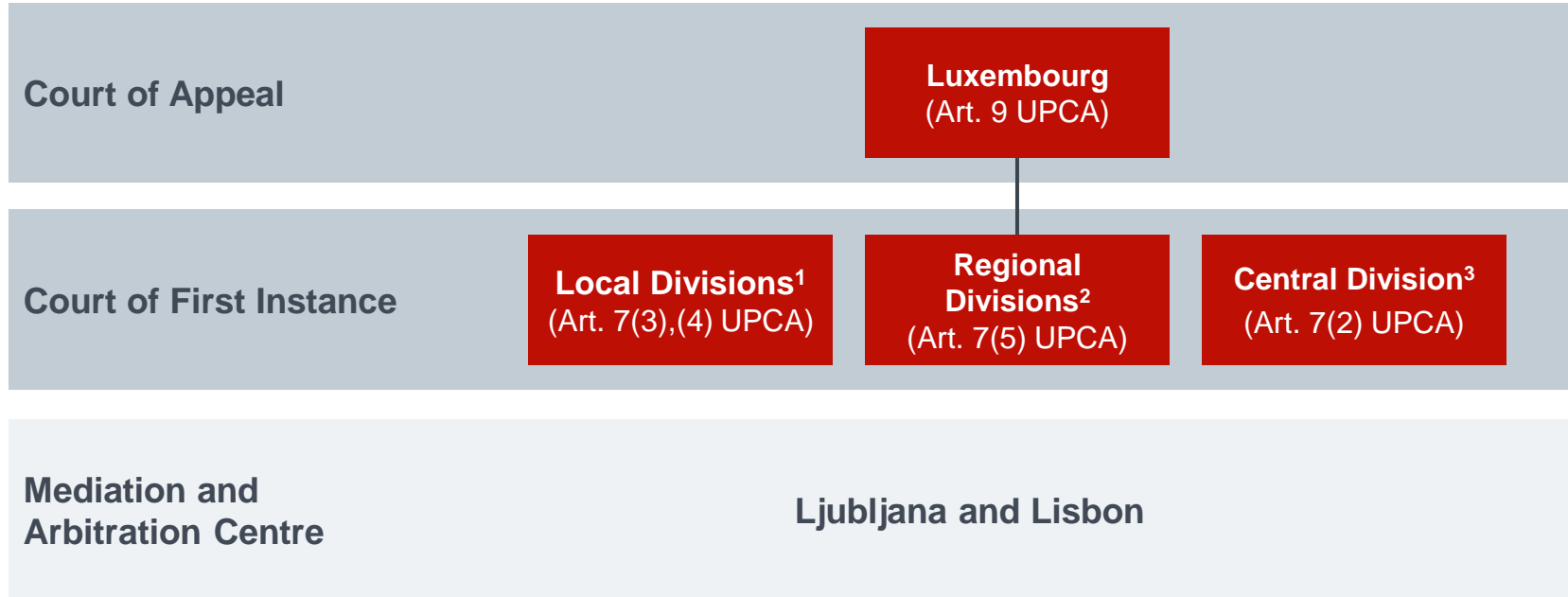
Decisions will be issued by internationally composed panels comprising both legally and technical qualified judges

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Designed to work in a highly efficient way with tight deadlines and judgments at first instance to be delivered one year after the start of the action

# Structure of the UPC



<sup>1</sup> Local divisions: AT, BE, DE (4 divisions Dusseldorf, Mannheim, Munich, Hamburg), DK, FI, FR, IT, NL, PT, SI

<sup>2</sup> Regional division in Stockholm created by Estonia, Latvia, Lithuania and Sweden

<sup>3</sup> Seat in Paris with a section in Munich. The UPC Agreement Contracting States will discuss and decide in due course whether and, if so, where to reassign the former London section of the Central Division

# Jurisdiction of the UPC as regards the subject-matter (Art. 32 UPC Agreement) (1/2)

Exclusive jurisdiction *inter alia* in respect of actions for

- Actual or threatened **infringement** of classic European and unitary patents and Supplementary Protection Certificates (SPCs) and related defences, including counterclaims concerning licences,
- **Declarations of non-infringement** of classic European and unitary patents,
- **Revocation** of classic European and unitary patents
  - by direct attack
  - by counter-claim
- Declaration of invalidity of **SPCs**
- **Injunctions**

# Jurisdiction of the UPC as regards the subject-matter (Art. 32 UPC Agreement) (2/2)

Exclusive jurisdiction *inter alia* in respect of actions

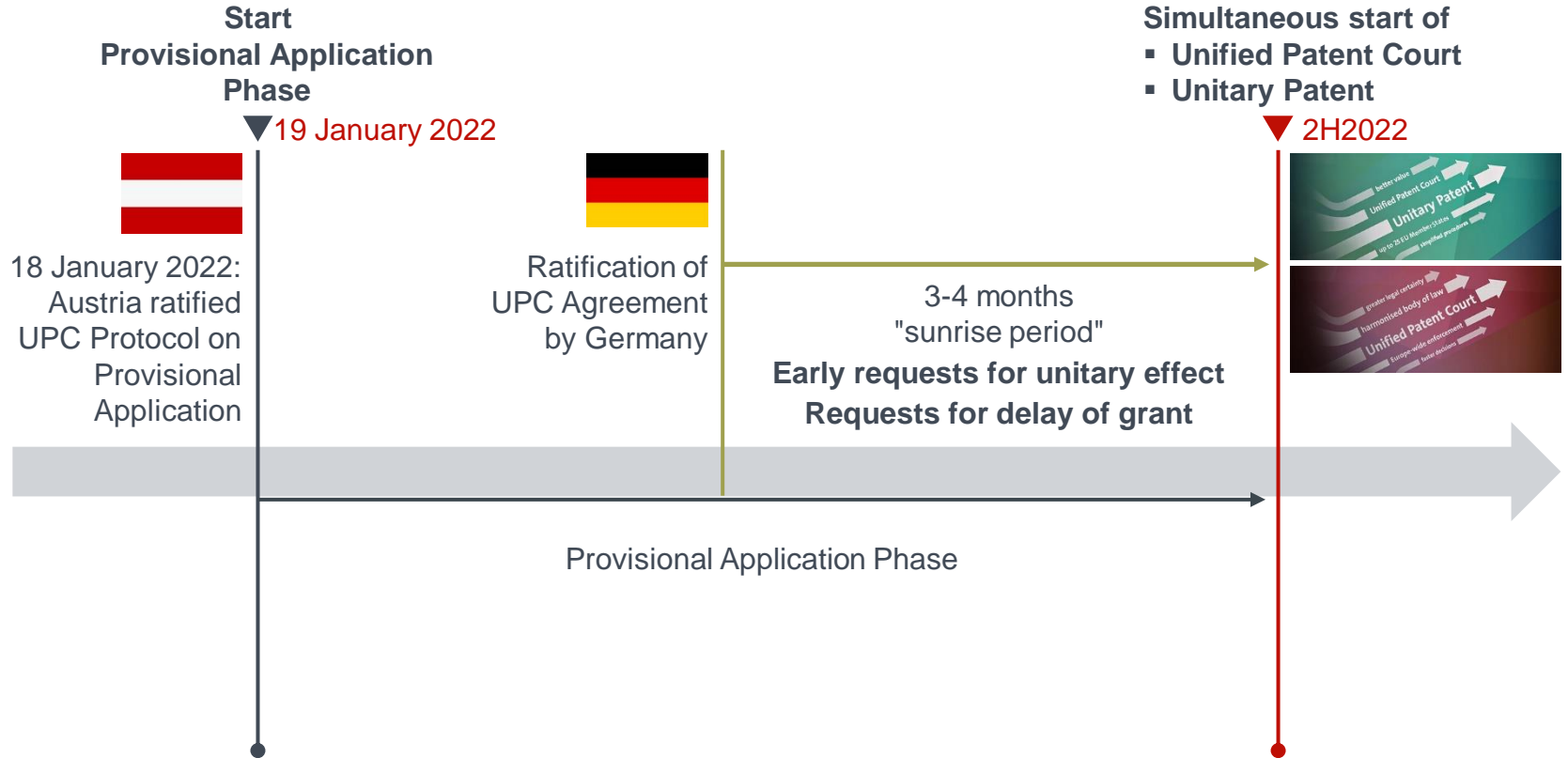
- for **provisional and protective measures**
- for **damages or compensation**
- relating to **prior use**
- related to the **decisions of the EPO** in carrying out the additional tasks concerning the Unitary Patent

# Jurisdiction of national courts (Art. 32(2) and Art. 83 UPC Agreement)

## National courts

- All actions relating to classical European patents and unitary patents which do not come within the exclusive jurisdiction of the UPC, *such as*
  - actions related to the right to a patent, or
  - actions related to the transfer of a patent right
- **Parallel jurisdiction** with UPC **during transitional period** with regard to European patent applications, classical European patents and SPCs, but **not** Unitary Patents
- **Opt-out possibility** with regard to European patent applications, classical European patents and SPCs, but **not** Unitary Patents

# When will the new system start?



## Need more information?



### Visit us

[www.epo.org/unitary](http://www.epo.org/unitary)



### Contact us

[international\\_legal\\_affairs@epo.org](mailto:international_legal_affairs@epo.org)





# Thank you for your attention!

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