



## Business-friendly fee pattern adopted for the unitary patent

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On 24 June the **Select Committee** of the Administrative Council of the EPO endorsed, with the required  $\frac{3}{4}$  majority, the European Patent Office's "True Top 4" proposal for a set of uniform renewal fees applicable to the unitary patent. The proposed fees covering the territory of the 25 EU member states participating in the unitary patent correspond to the sum total of the renewal fees currently paid for the four countries in which European patents are most frequently validated today (Germany, France, UK and the Netherlands).

Under the present regime, European patents, after grant by the EPO, must be validated individually in each country for which patent protection is sought. This results in significant administrative and financial overheads for companies, especially SMEs. For this reason, European patents are currently validated on average in only three or four of the participating member states. This leaves companies without protection in other European countries, and vulnerable to potentially illicit copying of their inventions there. It is thus an obstacle to the creation of a genuinely uniform European market for innovation, and puts European companies at a disadvantage compared to their competitors, especially in the USA and Asia, which can access their significant national or regional markets more easily and at lower cost before marketing their inventions on the global stage.

For this reason, the creation of a unitary patent for the EU member states is an important step, and one that has been expected for more than 40 years. With this first decision of the Select Committee on renewal fees, completion of the system for unitary patent protection in Europe is now in sight.

What is the size of the cost reduction under the True Top 4 proposal? For the first ten years - the average lifetime of a European patent - the cost of renewing a unitary patent will be less than EUR 5 000, and the cumulative total to be paid for maintaining it over the full 20-year term will be just over EUR 35 500 (cf. table below). For comparison, the amounts payable under the current system in the same 25 member states add up to EUR 29 500 for the first ten years, and nearly EUR 159 000 for the full 20 years. In other words, the fee scale now endorsed for the unitary patent under the True Top 4 proposal corresponds to a reduction of 78% compared to the current situation.

In addition, the transaction costs under the current system, including the translation costs and fees which have to be paid in each individual member state through patent attorneys or specialised service providers, will also be reduced significantly, i.e. by about 50% for an average patent validated in four countries.

The particularly low fees for the first 10 years will make the unitary patent very attractive for business, and especially for SMEs, universities, research centres and individual inventors. Moreover, for SMEs and similar entities based in EU member states which do not have an EPO official language (English, French or German) as a national language, separate arrangements governing financial compensation for their translation costs have also been adopted. Lastly, in their future monitoring and regular review of the unitary patent system, the member states are committed to paying particular attention to its use by small entities like SMEs, and may adopt further specific measures if need be.

What are the next steps? The decision of the Select Committee on the level of the renewal fees will be part of a package comprising the level of the fees for the unitary patent, including the distribution key for apportioning the renewal-fee income it generates. At present, renewal fees for European patents are collected by each member state in which the patent is validated, and the member states then pay 50% of this income to the EPO. Because the renewal fees for unitary patents will be paid in a single step to the EPO, it is necessary to define how this income is to be shared amongst the participating member states.

The Select Committee has already made good progress on defining a possible distribution key. It is expected that the whole package, comprising the level of renewal fees and the distribution key, can be finalised and adopted in the autumn of this year.

### Comparison of renewal fees

Year	True TOP 4	25 MS
	€	€
2	35	0
3	105	1 298
4	145	1 874
5	315	2 545
6	475	3 271
7	630	3 886
8	815	4 625
9	990	5 513
10	1 175	6 416
11	1 460	7 424
12	1 775	8 473
13	2 105	9 594
14	2 455	10 741
15	2 830	11 917
16	3 240	13 369
17	3 640	14 753
18	4 055	16 065
19	4 455	17 660
20	4 855	19 197
<b>Total</b>	<b>35 555</b>	<b>158 621</b>

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