

Action brought on 22 March 2013 - Kingdom of Spain v European Parliament and Council of the European Union

(Case C-146/13)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: E. Chamizo Llatas and S. Centeno Huerta, Agents)

Defendants: European Parliament and Council of the European Union

Form of order sought

- Declare legally non-existent Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection and, in the alternative, annul that regulation in its entirety;
- In the alternative, annul:
 - (a) Article 9(1) in its entirety, and Article 9(2) in the terms set out in the fifth plea in law in support of this action;
 - (b) Article 18(2) in its entirety, and all references in Regulation No 1257/2012 to the Unified Patent Court as the judicial regime for the EPUE [European patent with unitary effect] and as the source of law for the EPUE
- Order the European Parliament and the Council of the European Union to pay the costs.

Pleas in law and main arguments

Breach of the values of the rule of law in so far as a regulation has been established on the basis of a right granted by the European Patent Office, whose acts are not subject to judicial review.

Non-existence of an act of the European Union and, in the alternative, lack of a legal basis for Regulation No 1257/2012 in that it does not introduce measures guaranteeing the uniform protection envisaged in Article 118 TFEU.

Misuse of power through the use of enhanced cooperation for purposes other than those provided for in the Treaties.

Infringement of Article 291(2) TFEU and, in the alternative, misapplication of the *Meroni* case-law in the regulation of the system for setting renewal fees and for determining the 'share of distribution' of those fees.

Misapplication of the *Meroni* case-law in the delegation to the European Patent Office of certain administrative tasks relating to the European patent with unitary effect.

Breach of the principles of autonomy and uniformity in the application of European Union law, as regards the rules governing the entry into force of Regulation No 1257/2012.

1 - OJ 2012 L 361, p. 1.

Action brought on 22 March 2013 - Kingdom of Spain v Council of the European Union**(Case C-147/13)***Language of the case: Spanish***Parties***Applicant:* Kingdom of Spain (represented by: S. Centeno Huerta and E. Chamizo Llatas, acting as Agents)*Defendant:* Council of the European Union**Form of order sought**

Annul Council Regulation 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 and order the Council to pay the costs

Alternatively, annul Articles 4, 5, 6(2), and 7(2) of Council Regulation 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 and order the Council to pay the costs.

Pleas in law and main arguments

Infringement of the principle of non-discrimination by introducing a scheme to the detriment of persons whose mother tongue is not English, French or German, the scheme being disproportionate to the objective pursued.

Lack of legal basis for Article 4 by regulating translation in the event of a dispute, which does not directly affect the language arrangements for the intellectual property right referred to in the second paragraph of Article 118 TFEU.

Infringement of the principle of legal certainty.

Failure to have regard to the case-law in *Meroni*¹ by delegating the administration of the compensation scheme (Article 5) and the publication of the translations (Article 6(2)) to the European Patent Office.

Infringement of the principle of the autonomy of European Union law by making the application of the Regulation dependent on the entry into force of the Agreement on a Unified Patent Court.

¹ - OJ 2012 L 361, p. 89