

**The Unitary Patent & the Unified Patent Court**

# The Language Question

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The Unified Patent Court

**The language question**

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- Legal sources
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## Legal sources

-  17 December 2012  
**Regulation** 1257/2012 enhanced cooperation in the creation of unitary patent protection
-  17 December 2012  
**Regulation** 1260/2012 (translation arrangements)
-  19 February 2013  
**Agreement** on a Unified Patent Court and draft Statute
-  19 October 2015  
Draft **Rules of Procedure** Unified Patent Court (V18)




[http://www.upc.documents.eu.com/PDFs/2015-10-19\\_Agreement\\_UPC\\_DE-EN-FR\\_and\\_Rules\\_Procedure\\_UPC\\_DE-EN-FR\\_Draft\\_18.pdf](http://www.upc.documents.eu.com/PDFs/2015-10-19_Agreement_UPC_DE-EN-FR_and_Rules_Procedure_UPC_DE-EN-FR_Draft_18.pdf)

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The main publicly available documents can be found on

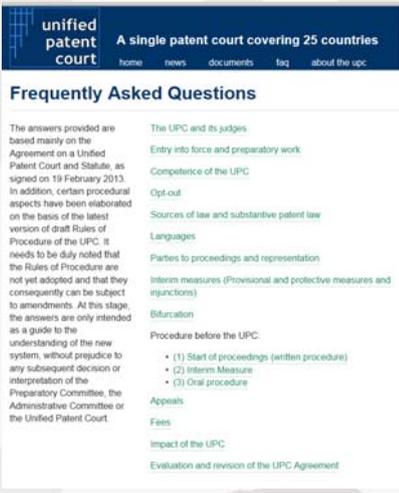
## www.upc.documents.eu.com



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## UPC's FAQ



<https://www.unified-patent-court.org/faq>

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## The European Patent with Unitary Effect: language regime

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## Unitary Patent: language regime

Procedural requirements (cf. Art. 9 (1) g Reg. 1257/2012; R. 6 UPR), filing of the request:

- by the patent owner in writing
- in the language of the proceedings
- within one month following the publication of the mention of the grant

## Unitary Patent: transitional period

During a transitional period (6 years+), a translation of the European Patent has to be submitted with the request (Art. 6 Reg. 1260/2012):

- Full EN translation if the patent is granted in FR or DE
- Full translation into any language of the EU if the patent is granted in EN

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## Unified Patent Court : language regime

- UPC Agreement
- Rules of Procedure

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The Unified Patent Court

**Article 49 Unified Patent Court Agreement**

## Language of proceedings at the Court of First Instance

“(1) *The language of proceedings before any local or regional division shall be an official European Union language which is the **official language** or one of the official languages of **the Contracting Member State hosting the relevant division**, or the official language(s) designated by Contracting Member States sharing a regional division.*



“(2) *Notwithstanding paragraph 1, **Contracting Member States may designate one or more of the official languages of the European Patent Office as the language of proceedings of their local or regional division.***”



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Article 49 Unified Patent Court Agreement

## Language of proceedings at the Court of First Instance

*“(3) The parties may agree on the use of the language in which the patent was granted as the language of proceedings, subject to approval by the competent panel. If the panel does not approve their choice, the parties may request that the case be referred to the central division.”*



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Article 49 Unified Patent Court Agreement

## Language of proceedings at the Court of First Instance

*“(4) With the agreement of the parties **the competent panel may, on grounds of convenience and fairness, decide on the use of the language in which the patent was granted as the language of proceedings.**”*



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**Article 49 Unified Patent Court Agreement**

## Language of proceedings at the Court of First Instance

*“(5) At the request of one of the parties and after having heard the other parties and the competent panel, **the President of the Court of First Instance may, on grounds of fairness and taking into account all relevant circumstances, including the position of parties, in particular the position of the defendant, decide on the use of the language in which the patent was granted as language of proceedings. In this case the President of the Court of First Instance shall assess the need for specific translation and interpretation arrangements.**”*



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**Article 49 Unified Patent Court Agreement**

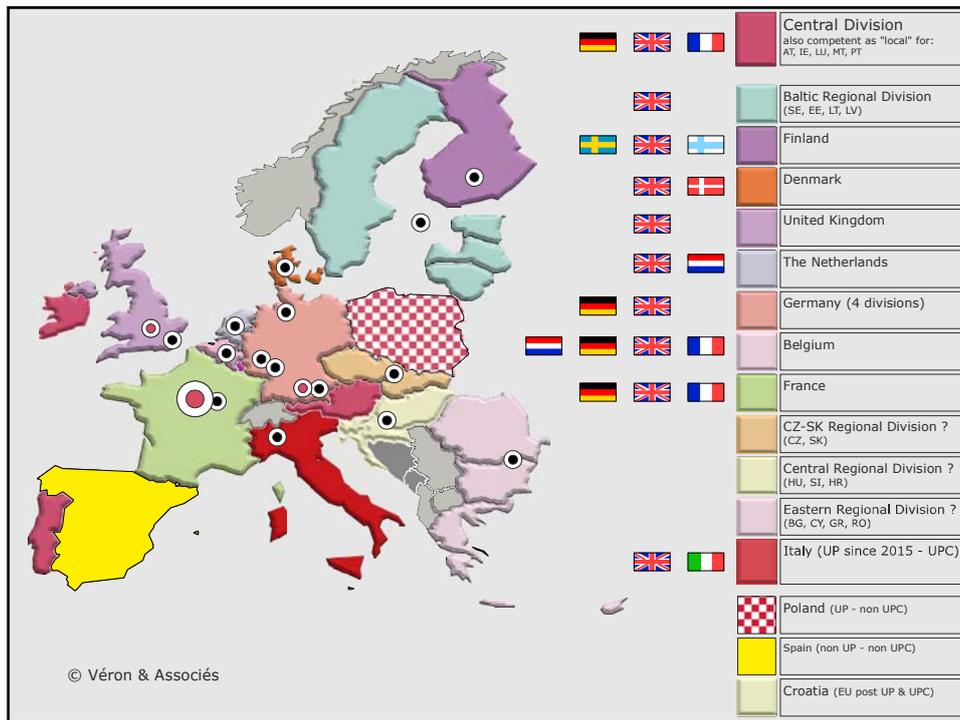
## Language of proceedings at the Court of First Instance

*“(6) The language of proceedings at the **central division shall be the language in which the patent concerned was granted.**”*



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The Unified Patent Court

**Article 50 Unified Patent Court Agreement**

## Language of proceedings at the Court of Appeal

“(1) *The language of proceedings before the Court of Appeal shall be the **language of proceedings before the Court of First Instance.***

(2) *Notwithstanding paragraph 1 **the parties may agree on the use of the language in which the patent was granted as the language of proceedings.***

(3) *In exceptional cases and to the extent deemed appropriate, the Court of Appeal may decide on another official language of a Contracting Member State as the language of proceedings for the whole or part of the proceedings, subject to agreement by the parties.”*

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**Article 51 Unified Patent Court Agreement**

## Other language arrangements

“(1) Any panel of the Court of First Instance and the Court of Appeal may, to the extent deemed appropriate, dispense with translation requirements.”



(2) At the request of one of the parties, and to the extent deemed appropriate, any division of the Court of First Instance and the Court of Appeal shall provide interpretation facilities to assist the parties concerned at oral proceedings.”



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**Article 51 Unified Patent Court Agreement**

## Other language arrangements

“(3) Notwithstanding Article 49(6), in cases where an action for infringement is brought before the central division, a defendant having its residence, principal place of business or place of business in a Member State shall have the **right to obtain, upon request, translations of relevant documents in the language of the Member State of residence, principal place of business or, in the absence of residence or principal place of business, place of business, in the following circumstances:**

(a) jurisdiction is entrusted to the central division in accordance with Article 33(1) third or fourth subparagraph, and

(b) the language of proceedings at the central division is a language which is not an official language of the Member State where the defendant has its residence, principal place of business or, in the absence of residence or principal place of business, place of business, and

(c) the defendant does not have proper knowledge of the language of the proceedings.”

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## 49 Language of proceedings: 1<sup>st</sup> instance

Regional division



**Language of the court**  
(national or EPO language)

Local division

Central division



**Language of the patent**

Regional division

Local division



**Language of the court**  
(national or EPO language)

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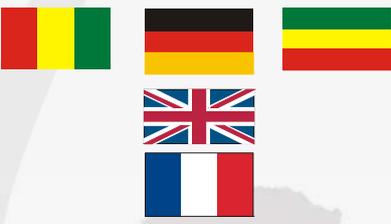
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## 50 Language of proceedings: appeal

- Language of 1<sup>st</sup> instance
- Language of the patent (upon the parties' agreement)
- Language chosen by the court and approved by the parties

Court of Appeal

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**Rule 14 Rules of procedure**  
**Use of languages**  
 under Article 49(1) and (2) of the Agreement

"1. Without prejudice to Articles 49(3) to (6) of the Agreement and subject to paragraph 2 and Rules 271.7, 321 to 323, proceedings shall be conducted:

(a) in the official language or one of the official languages designated as language(s) of proceedings pursuant to Article 49(1) of the Agreement; or

(b) in a language designated as language of proceedings by a Contracting Member State pursuant to Article 49(2) of the Agreement."

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**Rule 14 Rules of procedure**  
**Use of languages**  
 under Article 49(1) and (2) of the Agreement

"2. Where a Contracting Member State hosts a local division or participates in a regional division for which **several languages have been designated** pursuant to Article 49(1) and/or Article 49(2) of the Agreement:

(a) subject to paragraphs 2(b) and (c), **the claimant may choose** as the language of proceedings any of the language(s) designated pursuant to Article 49(1) and/or Article 49(2) of the Agreement;"

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**Rule 14 Rules of procedure**  
**Use of languages**  
**under Article 49(1) and (2) of the Agreement**

"2. Where a Contracting Member State hosts a local division or participates in a regional division for which several languages have been designated pursuant to Article 49(1) and/or Article 49(2) of the Agreement:  
...

(b) in proceedings before a local or regional division in a Contracting Member State against a defendant who has his domicile or principal place of business in that Contracting Member State where the action could not be brought pursuant to Article 33(1)(a) of the Agreement before any other local or regional division, proceedings shall be conducted in the official language of the Contracting Member State (paragraph 1(a)). **Where a designation by a Contracting Member State having several official regional languages so indicates, proceedings shall be conducted in the official language of the region in which the defendant has his domicile or principal place of business.** Where there are two or more such defendants whose domicile or principle place of business has different regional languages, the claimant may choose the language from the regional languages in question. Where a designation by a Contracting Member State having several official languages so indicates, proceedings shall be conducted in the official language of the defendant. Where there are two or more such defendants with different official languages, the claimant may choose the language from the official languages in question."

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Interest of the panel

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**Rule 14 Rules of procedure**  
**Use of languages**  
**under Article 49(1) and (2) of the Agreement**

"2. Where a Contracting Member State hosts a local division or participates in a regional division for which several languages have been designated pursuant to Article 49(1) and/or Article 49(2) of the Agreement:  
...

(c) Where a designation of a language under Article 49(2) of the Agreement for a regional division or for one or more local division(s) hosted in a Member State so indicates, **the judge-rapporteur may order in the interest of the panel provide that judges may use in the oral proceedings the language according to paragraph 1(a) and/or to provide that the Court may make any order and deliver any decision in the language according to paragraph 1(a) together with a certified translation for the purpose of Rule 118.8 into the language according to paragraph 1(b).**"

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**Rule 14 Rules of procedure**  
**Use of languages**  
**under Article 49(1) and (2) of the Agreement**

*"3. The Registrar shall maintain a list of languages communicated by Contracting Member States pursuant to Article 49(1) and Article 49(2) of the Agreement as well as designations by Contracting Member States made pursuant to paragraph 2(b) and (c). The list shall be made publically available online.*

*4. The Registrar shall return any pleading lodged in a language other than the language of proceedings."*

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**Rule 13 & 24 Rules of procedure**  
**Documents & exhibits**  
**should normally be translated in the language of proceedings**

*"1. The claimant shall lodge a Statement of claim with the division chosen by him [Article 33 of the Agreement] which shall contain:...*

*(q) a list of the documents, including any witness statements, referred to in the Statement of claim, **together with any request that all or part of any such document need not be translated** and/or any request pursuant to Rule 262.1 (confidentiality request)...*

*2. The claimant shall at the same time supply a copy of each of the documents referred to in the Statement of claim."*

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**Rule 13 & 24 Rules of procedure**  
**Documents & exhibits**  
should normally be translated in the language of proceedings

*"3. The judge-rapporteur shall decide on any request made pursuant to paragraph 1(q) as soon as practicable after his designation pursuant to Rule 18."*

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**Thank you**

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