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PATENTANWÄLTE · RECHTSANWÄLTE

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## Newsflash 11.02.2015

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### **Spain´s revocation actions against the Unitary Patent Regulation (EU) No. 1257/2012 (C-146/13) and the Translation Arrangements Regulation (EU) No. 1260/2012 (C-147/13):**

### **here: opinion of the Advocate General of the Court of Justice of the European Union (CJEU):**

We would like to refer you to the Advocate General´s opinion dated November 18, 2014 in the revocation cases (C-146/13 and C-147/13) before the European Court of Justice (ECJ) dealing with certain questions regarding the validity of the above mentioned Regulations.

According to the Advocate General the two regulations forming part of the "Unitary Patent package" shall comply with European law and therefore, the CJEU should dismiss Spain´s action.

In a nutshell the Advocate General argues in response to Spain´s action:

1. Regulation 1257/2012 does not conflict with the system of the European Patent Convention (EPC). The regulation does not affect the application and examination procedure of an European Patent. The regulation only attributes to European patents an additional characteristic, namely unitary effect, without affecting the procedure regulated by the Convention.
2. Uniform protection can be ensured in the Unitary Patent System. Each European patent will be subject to the national law of a single Member State and that legislation will apply throughout the territory of the Member States participating in the enhanced cooperation. Any reference to national laws by the European Legislature is permitted when uniform protection is ensured on the territory of the participating Member states.
3. The choice of languages as foreseen in regulation 1260/2012 and any discriminatory effect in this respect is justified as the choice of languages pursues a legitimate objective and is appropriate and proportionate because it enables a significant reduction in translation costs. Furthermore, legal certainty is better safeguarded when less or even one language is authoritative.

A press release summarizing the opinion is attached for your convenience and may in addition be found under:

<http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-11/cp140152en.pdf>

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Please note that the Attorney General's opinion is not binding upon the CJEU which, however, follows said opinion in most cases. A decision of CJEU is to be expected in 2015.

We will update you about further developments and are happy to answer your questions.

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