TRADUCCIÓN INGLÉS

A utility model (UM) is a registered right that gives the holder exclusive use of a technical invention. The right is given in exchange for public disclosure of the workings of the invention and is granted for a limited period. In 1997, the European Commission proposed the harmonisation of laws on utility models across EU countries. However, this has been abandoned as no agreement could be found. Nevertheless, the Commission continues to monitor the economic relevance and impact of utility model legislation.

Utility models provide fast and low-cost protection for technical inventions since they are usually granted without substantive examination. For this reason, they are more accessible to individual innovators or small and medium-sized enterprises (SMEs) than patents, to which they are similar in their principle.

In countries where utility model protection is available, it is generally intended for the protection of minor or incremental innovations, frequently for mechanical or electrical devices.

In contrast to trade mark and design protection, there is no EU-wide utility model protection.

In 1997, following several consultations, the Commission presented a proposal for a Directive on the protection of utility models. The proposal was updated in 1999 but work on the proposal was suspended in March 2000 due to difficulties in reaching an agreement. Priority was given to a Community patent. The Commission finally withdrew the proposal in 2006.

While there is no EU legislation related to the protection of utility models, the following EU legislation on enforcement of intellectual property rights also applies to the enforcement of national utility models in EU countries:

- The 2004 Directive on the enforcement of intellectual property rights provides for EU-wide remedies and penalties against infringements of utility models.
- Regulation (EU) No 608/2013 concerning customs enforcement of intellectual property rights applies to utility models.

In 2013, a study was commissioned on the economic impact of UM legislation in 14 countries. The aim was to obtain updated information on the legal frameworks related to UMs or information on the availability of other instruments related to the protection of incremental innovation where specific UM protection was absent.

The study authors found that UMs systems differed greatly and have lost much of their supposed ability to protect ‘minor inventions by small inventors’. Rather, the UM has turned into an auxiliary tool of IP professionals, who use it in national contexts to overcome shortcomings of the patent system. Overall awareness of UMs outside this group of IP professionals was low. The main commonly agreed upon reason to take out UMs is speed, which makes the UM particularly attractive for industries with short product life cycles and for enforcing pending patents via branched off utility models (in countries where such an option is available). The main barriers and risks associated with UMs are lack of legal certainty, potential abuse of the system and unclear costs. While it was not possible to conclusively gauge the impact of UMs on innovation, considerable insights were found on impact mechanisms, the success factors and the risks of introducing a UM system at European level – a topic on which the interview partners in Europe were considerably divided.