

Our submission concerns the EPLA, which we strongly support, and that should be adopted as soon as possible. In view thereof, full Commission support is required as a matter of urgency. We believe the current legal objections to the EPLA to be substantially flawed, and we therefore disagree with what has been said by the German lawyers association. As the EPLA courts have to be seen as national courts for the purpose of EU law, the EPLA courts nicely fit in with Regulation 44/2001 without any conflict. In the AETR decision and Opinion 1/03 of the ECJ it has been decided that the Community only has exclusive competence in case of a conflict, and there is no such conflict. There is ECJ precedent for equating supranational courts to national courts for the purpose of EU law, viz. the decision in which the Benelux Court of Justice was equated to national courts.

The reason why we support the EPLA is that industry, both as claimant and as defendant, needs high-quality decisions by specialized and experienced courts, to enforce good patents and to throw out bad patents. Especially if patent quality is an issue, we need good courts to throw out the bad patents. Regrettably, not all national courts are able to provide the required high quality, specialization and experience. Therefore, we do not think that it is a good idea to follow the example of the Community trademark litigation system, in which national courts handle the litigation.

In the further negotiations concerning the EPLA, its advantages should be maintained. While I am not going to repeat these advantages, which have been mentioned by previous speakers, we particularly hope that the reduced number of languages and the full participation of technical judges will not be lost.