



# EIC NEWSLETTER

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## Headline

**Branka Totić**, Director

Intellectual Property Office of the Republic of Serbia

## Serbia becomes a member of the European Patent Organisation

On 1 of October, the Republic of Serbia became a member of the European Patent Organisation (EPO), which was established by the European Patent Convention of 1973 to enhance co-operation between European countries in the area of patent protection and create an integrated European patent system. Currently, the EPO has 38 full member states and two further states have patent extension agreements. The effect of the Convention is to rationalise the processing of patent applications from examination through to grant. Instead of the same procedure being carried out at the same time but separately in several countries where the applicant wishes to have his/her invention patented, it is now implemented at a single location - the EPO.

By acceding to the European Patent Convention the Republic of Serbia has met one of the most crucial prerequisites for joining the European Union. The impact of this for Serbian citizens is mirrored in the fact that they are able to obtain high-quality protection for their inventions in all EPO member states in

accordance with European standards. The good reputation of European patents and the strong assumption of their validity, coupled with the efficiency of our national patent implementation system, provide a sound basis for investment in our country and the transfer of modern technologies to it.

The system based on the European Patent Convention provides for a much larger number of patent applications than would have been filed via the national system. This is due to the fact that the Convention encompasses a multiplicity of states, and all that an applicant is required to do in order to ensure protection in another state is to pay another designation fee.

Experience has shown that each country's accession to the European Patent Convention has had a positive impact on the promotion of the patent system, and thus on public awareness of the significance of patents for industry and scientific research institutions. It is therefore an important factor in stimulating innovation.

Membership of the EPO will enable Serbian applicants wishing to protect their inventions in one of the member states to file their patent applications direct with the EPO (in Munich, The Hague or Berlin), or via the Intellectual Property Office of the Republic of



Serbia. Applicants who have a permanent residence in Serbia will be able to act on their own behalf in proceedings conducted by the EPO, rather than acting solely via an attorney, as has been the case so far.

## Interview

**Benoît Battistelli**, President  
European Patent Office



## New perspectives for Serbia's IPO within the European Patent Organisation

On 1 October 2010 Serbia became the 38th member state of the European Patent Organisation. Serbia's accession to the European Patent Convention (EPC) marks a further expansion for the world's largest and most successful regional system for the protection of technical inventions. European patent applications and patents now cover a market of nearly 600 million people. Membership of the Organisation means that patent applications received by the EPO can also be validated in Serbia, which will certainly be an attractive option for numerous businesses holding European patents, considering Serbia's patent portfolio. The EPO receives well over 200 000 applications per year. At the same time, Serbia now forms part of one of the most dynamic and effective systems for the transfer of technology worldwide. Serbian businesses can now protect their inventions throughout the European market by filing a single patent application with the EPO. This will open up new economic opportunities.

Serbia's accession to the (EPC) is the result of close co-operation between the IPO and the EPO and testifies to the great efforts made by Serbia in the protection of intellectual property over the past decade. As a member of the European Patent Organisation your country will be able to participate actively in the shaping of the European patent system's future. It will also be able to benefit from the European Patent Network co-operation schemes, which provide opportunities for the IPO to work for the benefit of the Serbian economy and, at the same time, support its counterparts in the member states and the European economy as a whole. The EPN is one response on the part of our Organisation to the challenges of a rapidly moving landscape in the world of patents, which include reconsidering the roles of patent offices with a view to securing the economic value and functionality of patents. I am pleased that Serbia has now joined this community, and look forward to further fruitful co-operation with you.



David Jelerčič, Project Director IPA National  
European Patent Office

## Outline of the co-operation between the European Patent Office and the Intellectual Property Office of the Republic of Serbia

Serbia's accession to the European Patent Convention is the result of close co-operation between the IPO and the EPO over many years and it is worth looking at some of its milestones.

On 1 November 2004, a co-operation and extension agreement with the European Patent Organisation entered into force for the State Union of Serbia and Montenegro. After the State Union had been terminated in June 2006, Serbia became the legal successor in respect of that agreement. While implementing the extension system, Serbia has brought its patent legislation largely up to a European standard.

In the context of the Stabilisation and Association process launched in 2000, the EPO implemented from 2003 to 2006, in co-operation with the Office



for Harmonization in the Internal Market (OHIM), the CARDS 2002 regional project "Industrial and Intellectual Property Rights" aimed at strengthening IP in the western Balkans. Officials of the IPO

together with other national IP stakeholders were invited to a series of general seminars on IP.

In parallel with the regional action, the CARDS 2004 national project "Technical assistance to the Intellectual Property Office of Serbia", managed by the European Agency for Reconstruction and implemented by the EPO, aimed primarily at rebuilding the technical infrastructure of the IPO, upgrading it to international standards and digitising the entire patent collection.

The Instrument for Pre-accession Assistance (IPA) for the period 2007-2013 has been used to provide support to the western Balkans and Turkey, and hence Serbia, through the IPA Regional Programme on Industrial and Intellectual Property Rights (2008-2010), also implemented by the EPO. The purpose of this is to bring their IPR legislation into compliance with the TRIPS requirements, build up the capacity of relevant institutions involved in IPR, and ensure the effective enforcement of IPRs.

At the same time, Serbia is the beneficiary of the IPA 2007 National Project entitled "Support to the Education and Information Centre of the Intellectual Property Office of Serbia", whose main purpose is to build up the IPO's ability to develop IPR-related education, training and information in Serbia. The project started in 2009 with the setting up of the Education and Information Centre (EIC) within the IPO.

Annie Decroix, Member of the Legal Division  
European Patent Office

## Accession of Serbia to the European Patent Organisation: new opportunities for Serbian patent attorneys

Following the accession of the Republic of Serbia to the European Patent Convention (EPC) with effect from 1 October 2010, Serbian patent attorneys can acquire the right to act as professional representatives before the European Patent Office (EPO) and consequently be entered on the list of professional representatives maintained for that purpose by the EPO.

Representation in proceedings before the EPO may only be undertaken by professional representatives whose names appear on the above-mentioned list (Article 134(1) EPC). In order to be entered on this list, professional representatives have to fulfil certain conditions, one of them being to have passed the European Qualifying Examination (EQE). However, patent attorneys having their place of business or employment in a state which has acced-

ed to the Convention may exceptionally be entered on the list, without having passed the EQE, during a period of one year from the date on which the accession takes effect.

These representatives must have been entitled to represent natural or legal persons in patent matters before the competent national intellectual property office. Thus, all persons who are entitled to represent applicants before the Intellectual Property Office of the Republic of Serbia and who have either passed the national examination or practised for at least five years may apply for registration as a European patent attorney.

The President of the European Patent Office may grant an exemption from the requirement of five years' experience if the requester provides proof



that he has acquired the requisite qualification in another way (Article 134(7) EPC).

Furthermore, any person applying for registration must in principle have the nationality of a contracting state, although an exemption from this requirement may also be granted under exceptional circumstances (Article 134(7)(a) EPC).

Hence, representatives from Serbia who fulfil these conditions may request to be entered on the list of professional representatives until 30 September 2011. Such requests, accompanied by the appropriate evidence and certificate, should be addressed to the Legal Division of the EPO (Directorate 5.2.4).



## European patent

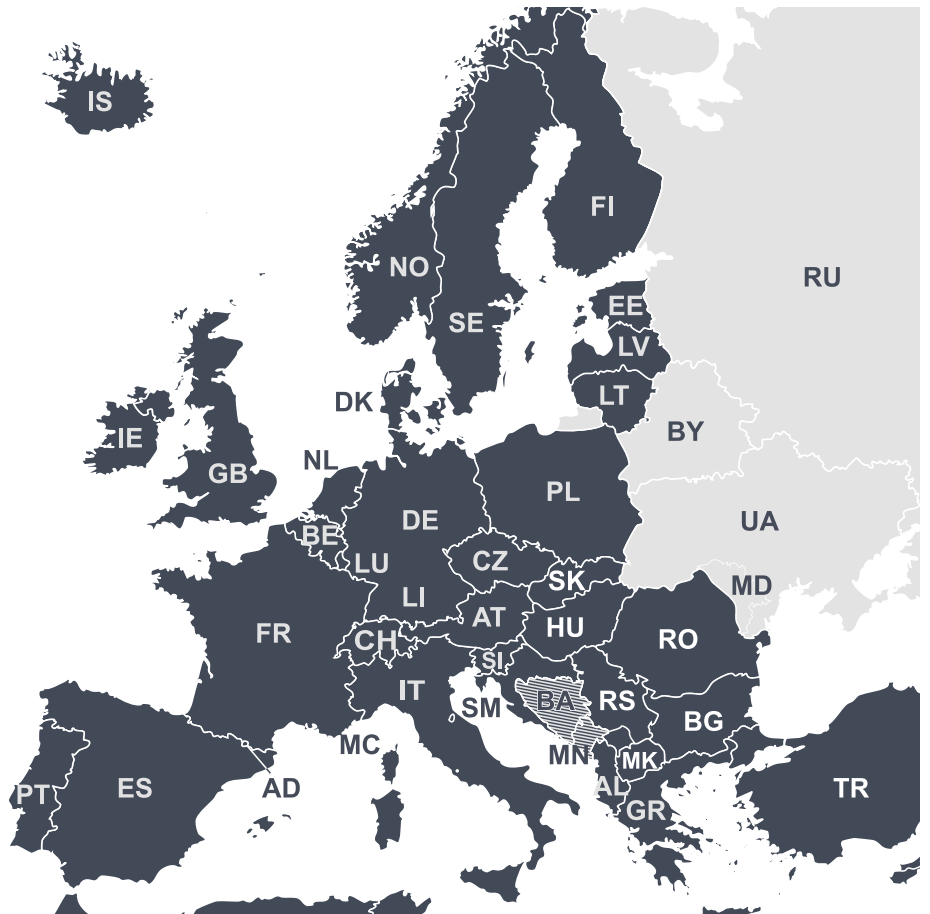
The European Patent Convention (EPC) established a single procedure for the grant of patents on the basis of a single application. In each contracting state for which it is granted, a European patent gives its proprietor the same right as would be conferred by a national patent granted in that state. Any infringement of a European patent is dealt with under national law. A published European patent application provides provisional protection which is no less than that conferred by a contracting state for a published national application. The term of a European patent is twenty years provided that the annual renewal fees are paid. European patents may also be effective in some countries that have not acceded to the EPC (extension states).

### Filing a European patent application

A European patent application may be filed by any natural or legal person, irrespective of nationality and place of residence or business. It can be filed with the European Patent Office (EPO) in Munich, its branch at The Hague or its sub-office in Berlin. The application can also be filed with the national office of a contracting state if the law of that state so permits. The application is filed in written form, either in person or by post, by fax or online, in one of the three official languages of the EPO (English, French and German). Otherwise, the applicant has two months, from the filling date, to submit a translation. A European patent application consists of a request for the grant of a European patent, a description of the invention, one or more claims, any drawings referred to in the description or claims, and an abstract. If the applicant has his residence or principal place of business in a contracting state, he may act on his own behalf in proceedings before EPO.

### Examination procedure

A European patent is granted after an examination designed to establish whether the European patent application and the invention to which it relates comply with the patentability requirements of the EPC. The examination procedure is conducted by the Receiving Section and examining divisions. If they decide against the application, the applicant can file an appeal before the board of appeal of the EPO. Once a European patent has been granted, there follows a nine-month period in which third parties are entitled to file a reasoned notice of opposition. As a result of the opposition proceedings, the patent is either maintained as granted or amended or it is revoked. The decision taken in the opposition proceedings is also subject to appeal.



The European procedure is conducted in the language in which the application is filed. In the final phase of the European patent grant procedure, however, the applicant is required to file a translation of the claims in the other two official languages; and most contracting states require a translation of the European patent specification into their official language, if different from the language of the proceedings, for the European patent to take effect there.

The European patent grant procedure consists of two main stages. The first comprises formalities examination, search report preparation and the drafting of an opinion on whether the application and the invention to which it relates seem to meet the requirements of the EPC. This stage ends with the publication of the European patent application. At the applicant's request this is followed by the second stage: substantive examination, in which the invention's patentability is examined. Examining divisions are made up of three technically qualified examiners. The search fee and examination fee are paid separately, which enables the applicant to decide, on the basis of the search report, whether it is worth while go-

ing on to substantive examination. All European patent applications, European search reports and the European patent specification are published in electronic form only, on the EPO's publication server.

### Choosing a route

The European procedure has not superseded the national grant procedures. So when seeking patent protection in one or more EPC contracting states you have a choice between following the national procedure in each state for which you want protection and taking the European route, which in a single procedure confers protection in all the contracting states that you designate. If you decide you want a European patent, you have a further choice between the direct European route and the Euro-PCT route. With the direct European route, the entire European patent grant procedure is governed by the EPC alone. With the Euro-PCT route, the first phase of the grant procedure (the international phase) is subject to the PCT, while the regional phase before the EPO as designated or elected Office is governed primarily by the EPC.

Daniela Zlatić Šutić, Senior Adviser  
Intellectual Property Office of the Republic of Serbia

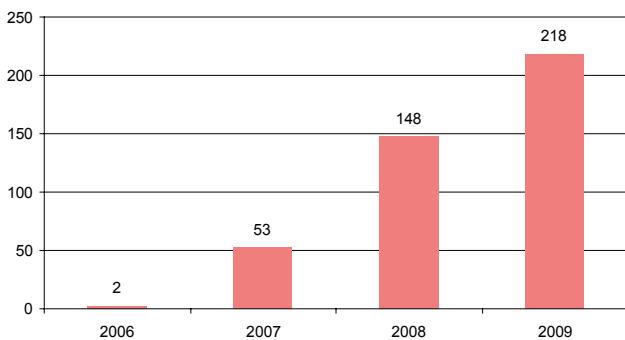
## Figures on filed European patents

On the basis of a co-operation and extension agreement with the European Patent Organisation, all applicants who filed a European patent application after this agreement entered into force on 1 November 2004 could extend the application and any granted European patents

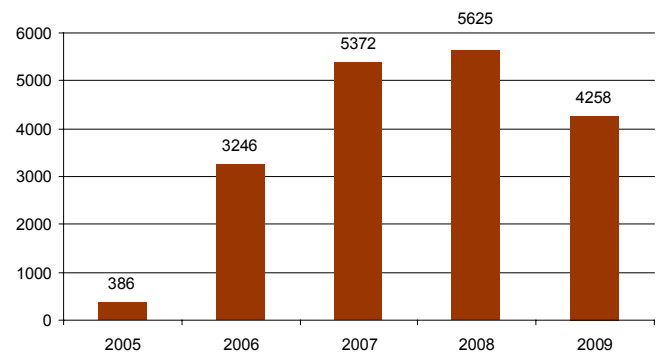
to the territory of the Republic of Serbia. A request for extension must be submitted within six months of publication of the search report. The first requests for extension of European patent applications to the Republic of Serbia were filed in 2005 and the first requests for registration of European patents in 2006. When this agreement entered into force, the number of foreign applicants using the PCT route for patent protection in

Serbia decreased drastically in favour of extension of applications and registration of patents. On 1 October 2010 Serbia became a member state of the European Patent Organisation and can be designated in EPO applications in the same way as all the other member states. As from that date, the co-operation and extension agreement lapsed.

Number of requests for registering European patent at the IPO



Number of requests for extension of the European patents to RS



## News

### The Director General of the World Intellectual Property Organization visits Serbia

The Director General of the World Intellectual Property Organization (WIPO), Dr Francis Gurry, visited Belgrade on 25 and 26 October 2010 as the guest of the Ministry for Science and Technological Development. A memorandum of understanding was signed between WIPO and the government of the Republic of Serbia. During his stay in Belgrade, Dr Gurry also visited our Intellectual Property Office and afterwards addressed Serbia's scientific and academic community at Belgrade University's Senate House.



### Regional Conference on IP Teaching



A regional conference was held in the Zira Hotel in Belgrade on 1 and 2 September as part of the IPA regional project for intellectual property supported by the European Union. The theme was "Teaching Intellectual Property in Higher Education Establishments" and the purpose of the event was to raise awareness of the importance of education in the area of intellectual property, with special emphasis on higher education establishments. The conference provided fertile ground for an exchange of views and information between speakers from the EU states, WIPO, the EPO and other countries of the region.

Nikola Radovanović, adviser  
Intellectual Property Office of the Republic of Serbia

### Co-operation with the Judicial Academy

During a workshop for representatives of enforcement authorities in Serbia on 8 October, the IPO signed a memorandum of understanding with the Serbian Judicial Academy. In doing so, the two institutions agreed to pool their efforts in the area of IP training for members of the judiciary.



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Education and Information Centre



The Intellectual Property Office of the Republic of Serbia