

Poland has no plans to join the Unified Patent Court

Three years have passed since the launch of the Unitary Patent system and the commencement of operations of the Unified Patent Court (UPC). Since 1 June 2023, holders of European patents granted on or after that date have been able to apply to the European Patent Office (EPO) for the registration of unitary effect. As a result, such patents automatically enjoy protection across the territories of the 18 EU Member States that have ratified [the Agreement on a Unified Patent Court](#), without the need for national validation. Any finding of infringement or revocation has effect simultaneously in all participating states.

Poland does not participate in the enhanced cooperation establishing the Unitary Patent system. Like Spain and Croatia, it has not signed the UPC Agreement.

Recently, however, **the issue of Poland potentially joining the system has re-emerged, sparking considerable debate among stakeholders.** Correspondence between the Polish Patent Office (PPO), Minister of Justice Waldemar Żurek, and representatives of the European Patent Office has

come to light, suggesting that a change in Poland's long-standing position may have been under consideration.

In this article, we outline the current state of the debate and present the Polish government's official position on the matter. For a more in-depth analysis, we also recommend reading [the study](#) published by the Polish Chamber of Patent Attorneys in May 2026.

Why Poland did not join the Unified Patent Court

When the question of whether Poland should sign the UPC Agreement was being considered at the beginning of the previous decade, the Ministry of Economy commissioned Deloitte to prepare a report assessing the potential consequences of joining the system. The report clearly highlighted the scale of the risks involved.

According to the report, if Poland were to join the UPC system, the combined costs of litigation, licensing, freedom-to-operate (FTO) analyses, and adaptation measures would increase by approximately PLN 53 billion over a 20-year period and by approximately PLN 79 billion over a 30-year period, compared with the scenario in which Poland remained outside the system. It was feared that the costs of proceedings before the UPC would prove prohibitive, particularly for small and medium-sized enterprises (SMEs). At the same time, a sharp and significant increase in the number of patents in force in Poland was expected. Concerns were also raised about structural imbalance: the system was seen as favoring countries with high levels of patenting, thereby placing Central and Eastern European states at a competitive disadvantage.

Thirteen years later, and three years after the system became operational, it is worth examining to what extent these concerns have been borne out in practice.

3 years after the launch of the unitary patent system: where does the debate stand today?

Many of the concerns raised at the time remain valid today. It is worth noting at the outset that although the Unitary Patent system continues to develop and the UPC is gradually establishing its

body of case law, confidence in the system is still relatively limited. This is evidenced by **the very high number of opt-outs, particularly in the pharmaceutical sector, whereby patentees exclude their European patents from the jurisdiction of the UPC**. This trend also extends to major Western European corporations which, despite generally being regarded as the principal beneficiaries of the UPC, still appear to prefer relying on national courts.

In its May 2026 report assessing the potential benefits and drawbacks of Poland's accession to the UPC, the Polish Chamber of Patent Attorneys particularly emphasized **the risk of a substantial increase in the number of patents in force in Poland**. Referring to EPO statistics, it estimated that within four years of joining the system, the number of patents in force in Poland would double, while as many as 99% of those patents would be owned by foreign entities. If the current requirement to provide Polish translations when validating European patents were maintained, this effect would likely be delayed by at least ten years.

Such an increase in the number of enforceable patents would have **a negative impact on the freedom to operate of both domestic businesses and foreign investors, as the risk of infringing third-party patents would rise significantly**. At the same time, businesses seeking to introduce new technologies and products to the market would inevitably face substantially higher costs of conducting freedom-to-operate (FTO) analyses.

The Polish Chamber of Patent Attorneys also argues that **the final structure of the UPC court fees has, as originally feared, been set at a level that is effectively beyond the reach of most Polish businesses and is instead tailored to the financial capabilities of large Western European companies**.

For example, the maximum court fee payable when bringing an infringement action before the UPC amounts to EUR 336,000, whereas the corresponding maximum court fee in Poland is approximately EUR 23,000. In the case of revocation actions, the fees amount to EUR 26,500 before the UPC and approximately EUR 230 before Polish courts. The Chamber further notes that the fact that the vast majority of UPC cases are settled before reaching judgment is indicative of the considerable financial pressure imposed by the system, with weaker parties often choosing to settle simply to avoid escalating litigation costs.

Another aspect criticized by the Chamber is **the strict procedural framework of UPC proceedings, particularly the preclusive time limits applicable to counterclaims for revocation**. Unlike the more flexible procedural model available before Polish courts, a defendant before the UPC has only three months to raise substantiated invalidity arguments. **Language is another significant concern**. Proceedings before the UPC are conducted in English, French, or German, which inevitably places parties from other Member States at a disadvantage. This creates particular difficulties when pre-

paring a defense against infringement or revocation actions. The need to prepare translations further increases litigation costs, reinforcing the structural imbalance already identified by critics of the system. The Chamber also highlights the striking fact that no entity from the newer EU Member States has yet appeared before the UPC as a claimant seeking to enforce its own patent rights. As stated in its report:

The UPC system remains structurally unsuitable for the smaller Member States that joined the EU more recently as an offensive enforcement tool, while at the same time potentially becoming an extremely costly forum for defending against patent claims. Were Poland to join the system today, it would not become one of its active beneficiaries but rather one of the participants bearing the costs of the system without having any meaningful influence over its operation.

The Polish Association of Pharmaceutical Industry Employers — Domestic Medicines Manufacturers has recently expressed similar concerns. In its view, accession to the UPC would expose Polish pharmaceutical companies to infringement actions brought by stronger foreign competitors that are considerably more experienced in operating within the Unitary Patent system. The projected rapid increase in the number of patents in force in Poland is regarded as a threat to the stability of the generic medicines market.

One foreseeable consequence would be **reduced availability of generic medicines**. This concern stems from the common practice of originator pharmaceutical companies initiating patent infringement proceedings and seeking preliminary injunctions shortly before patent expiry in order to delay the market entry of generic competitors. **At the same time, higher litigation and compliance costs imposed on domestic manufacturers could ultimately translate into higher medicine prices for patients.**

The Polish Patent Office (PPO), for its part, has prepared an analysis presenting Poland's possible accession to the UPC in a more favorable light (see: [here](#)). According to that analysis, potential benefits could include stronger incentives to invest in domestic research and development, as well as an enhanced role for Warsaw as a regional legal and intellectual property hub.

Nevertheless, the authors of the PPO analysis also acknowledge that participation in the system would inevitably entail substantially higher costs of enforcing patent rights. They likewise recognize that the absence of Polish as an official language of UPC proceedings would create additional barriers for Polish businesses and patent attorneys. Finally, they concede that Polish companies would likely face increased competitive pressure, remaining primarily recipients rather than providers of advanced technologies.

The government's position of 10 June 2026

The issue was raised during the 59th sitting of the Sejm of the Republic of Poland on 10 June 2026, during the parliamentary question time. Mr Witold Tumanowicz, Member of Parliament representing the Confederation parliamentary group, asked the Minister of Finance and Economy whether the government intended to take any steps towards Poland's accession to the UPC Agreement. The response was delivered by Michał Jaros, Secretary of State at the Ministry of Development and Technology.

Minister Jaros stated unequivocally that the government's position on Poland's accession to the Unitary Patent system and the Unified Patent Court remains unchanged. He reaffirmed the validity of the government's position adopted on 25 May 2011, which, while supporting the objective of simplifying the European patent system, identified a number of significant challenges and risks that accession to the UPC could pose to the Polish economy and, in particular, to Polish businesses, including small and medium-sized enterprises.

No legislative work is currently underway regarding Poland's accession to the system, nor are there any plans to join it.

Minister Jaros also assured Parliament that, should the government ever decide to pursue accession to the UPC, such a decision would be preceded by public consultations. He further explained that the government, in cooperation with the Polish Patent Office, continues to monitor the operation and development of the Unitary Patent system on an ongoing basis.

Even outside the UPC, Poland may still feel its effects: The issue of *long-arm jurisdiction*

It should nevertheless be emphasized that, although Poland remains outside the UPC system, it cannot entirely insulate itself from the effects of the Unitary Patent regime.

Some time ago, we [discussed](#) on our blog the UPC's emerging practice of extending its jurisdiction beyond the territory of the participating Member States. We analyzed [the judgment of the Court of Justice of the European Union \(CJEU\) of 25 February 2025 in Case C-339/22, BSH Hausgeräte GmbH v Electrolux AB](#), in which the Court held that the UPC may adjudicate claims concerning infringement of a European patent even where the alleged infringement occurred in an EU Member State that is not a party to the UPC Agreement or in a non-EU state that is a party to the European Patent Convention. At the same time, the UPC has no jurisdiction to rule on the validity of the national parts of a European patent validated in EU Member States or in states that are parties to the Lugano Convention but are not parties to the UPC Agreement. Where revocation proceedings are pending before a national court, the UPC may stay its own proceedings, "particularly where it considers that there is a reasonable and non-negligible chance that the patent will be held invalid by the competent court of that other Member State" (paragraph 51 of the judgment).

Examples of this long-arm jurisdiction can be found in UPC decisions including *Fujifilm Corporation v Kodak GmbH and Others*, *Dyson Technology Ltd v Dreame International Ltd*, and *HL Display AB v Black Sheep Retail Products B.V.*

Poland has likewise been affected by this expanding approach to UPC jurisdiction. In *Hurom v NUC*, where one of the defendants was established in Germany, the UPC also examined the alleged acts of infringement committed in Poland. Similarly, in proceedings brought by *Genevant against Moderna*, the Hague Local Division of the UPC issued a procedural order confirming that it also had jurisdiction over defendants established outside the UPC Member States, including entities located in Poland. The Court concluded that the claimant had sufficiently demonstrated that Moderna Poland sp. z o.o. had infringed the patent in Poland jointly with Moderna Netherlands, the principal defendant, and that the close connection between the companies justified hearing the infringement claims together (see: [here](#)).

Conclusion

Closely monitoring the operation and continued development of the Unitary Patent system remains essential. However, any decision on whether Poland should accede to the system ought to be preceded by a thorough, evidence-based discussion of both its potential benefits and its risks.

At present, the balance of considerations clearly suggests that this is not the right time for Poland to join the Unitary Patent system. High litigation costs, the procedural rigidity of UPC proceedings, and the language regime, combined with the significant disparity between the number of patents granted to Polish applicants and those granted to applicants from Western European countries,

would place Polish businesses—particularly small and medium-sized enterprises—at a considerable disadvantage. Against this background, the Polish government's decision to maintain its current position and refrain from joining the UPC should be viewed positively.