

# Overview of the enforceability of decisions/orders of the Unified Patent Court (UPC) in contracting Member States

Decision type

(Final) Decisions	Orders	Decisions by default
<ul style="list-style-type: none"> <li>Permanent injunctions</li> <li>Recall</li> <li>Removal from distribution channels</li> <li>Transformation or destruction</li> <li>Information</li> <li>a.o.</li> </ul>	Interim measures / injunctions, e.g. <ul style="list-style-type: none"> <li>interim injunctions</li> <li>Information</li> <li>Evidence presentation/securing and inspection of premises</li> <li>Seizure of assets</li> <li>Seizure or surrender of certain products</li> </ul>	For all decisions possible

Enforceability

Decisions and orders generally directly enforceable <u>without</u> provision of security		
<b>Appeal</b> ≠ suspensive effect (Application for suspensive effect possible)	<b>Appeal</b> ≠ suspensive effect (Application for suspensive effect possible)	<b>Objection</b> ≠ Suspension of enforcement
<b>Revocation of enforceability</b> if patent is amended or revoked after completion of proceedings (upon request)	<b>Revocation of enforceability</b> if patent is amended or revoked after completion of proceedings (upon request)	<b>Suspension of enforcement</b> possible until the decision on the objection
<b>Security possible</b> Deposit, bank guarantee or „equivalent guarantees“	<b>Security possible</b> Deposit, bank guarantee or „equivalent guarantees“ In addition: Making continuation of the action subject to security (guarantee of compensation).	<b>Security possible</b> Deposit, bank guarantee or „equivalent guarantees“

Enforcement

In principle, enforcement at the level of the UPC		
Enforcement order shall be attached to the decision e.g.: <ul style="list-style-type: none"> <li>Penalties</li> <li>Account blocking on the part of the UPC</li> </ul>		
<b>Threat/imposition of penalty payments to the UPC</b> <ul style="list-style-type: none"> <li>Upon request / ex officio</li> <li>Granting of the right to be heard</li> <li>Decision by the court of first instance</li> <li>Order of substitute performance possible</li> <li>Recovery by UPC / Federal Office of Justice</li> </ul>	<b>Threat (probably only in case of cease and desist order) /imposition of penalty payments to the UPC</b> <ul style="list-style-type: none"> <li>Upon request / ex officio</li> <li>Granting of the right to be heard</li> <li>Decision by the court of first instance</li> <li>Order of substitute performance possible</li> <li>Recovery by UPC / Federal Office of Justice</li> </ul>	<b>Threat/imposition of penalty payments to the UPC</b> <ul style="list-style-type: none"> <li>Upon request / ex officio</li> <li>Granting of the right to be heard</li> <li>Decision by the court of first instance</li> <li>Order of substitute performance possible</li> <li>Recovery by UPC / Federal Office of Justice</li> </ul>
Appeal against imposition of a penalty payment ≠ Suspensive effect (NO request for suspensive effect possible)		
Enforcement at the level of the contracting Member States		
Decisions and orders of the Court shall be enforceable in all contracting Member States. <ul style="list-style-type: none"> <li>Enforcement order shall be attached to the decision.</li> <li>Enforcement/enforcement proceedings are governed by the law of the contracting Member State in which enforcement takes place; BUT: without prejudice to the UPCA and the UPC Statute – subsidiarity (extensive suppression).</li> <li>In particular for damages, penalty payments and other monetary claims</li> <li>EuGVVO ≠ Recognition and enforcement (disputed)</li> </ul>		

