

# Improving the Patent System in the EU

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# Contents

- Patent Law: Between market and government failure
- Harmonization of patent regulation in the EU
- Improving monitoring mechanisms in the system

MARKET FAILURE ↔ PATENT LAW ↔ GOVERNMENT FAILURE

Market disincentives  
to innovation

Government disincentives  
to innovation

# Market failure

- What happens? Disincentives to innovation
- How?
  - Firms are not able to reap the benefits of their investments or of their work.

# Government Failure

- What happens? Suffocation of innovation
- How?
  - Overprotection of rights (scope of patentability and strength of rights granted)
  - Burdensome and expensive approvals-litigation procedures
  - Predatory usage of patents
  - Negative externalities into other public sector functions (ie: health, education and scientific research)

# Harmonization of patent law in the EU

- Need of organizational consistency
- Need of a balanced approach
- Need of quality
- Need of innovation system perspective

# Improving monitoring

- Why more monitoring?: To avoid government failures at EU level.
- How?
  - Macro-level monitoring: Political instance with system overview and critical follow up of the praxis of patentability criteria, reporting to democratic institutions.
  - Meso-level monitoring: More instances assessing the 4 possible government failures
  - Micro-level: Generate new incentives to avoid "capture" of individual firms and EPO.